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TAXATION OF CORPORATIONS

PART IV—WESTERN CENTRAL STATES

REPORT

OF THE

COMMISSIONER OF CORPORATIONS

ON THE

SYSTEMS OF TAXING MANUFACTURING, MERCANTILE, TRANSPORTATION, AND TRANSMISSION CORPORATIONS IN THE STATES OF MINNESOTA, NORTH DAKOTA, SOUTH DAKOTA, IOWA, NEBRASKA, KANSAS, AND MISSOURI

NOVEMBER 20, 1913

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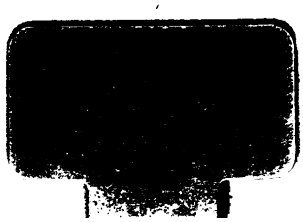

U.S. Bureau of corporations

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NOVEMBER 29, 1912

WASHINGTON : : GOVERNMENT PRINTING OFFICE : : 1912

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EXPLANATION OF ABBREVIATIONS.

Dak. Ter.—Dakota Territory.
et seq.—and the following.
ex rel.—upon the relation of.
Gen. Stats.—General Statutes.
Ibid.—the same.
Iowa.—Iowa Supreme Court Reports.
Kans.—Kansas Supreme Court Reports.
L. R. A.—Lawyers' Reports Annotated.
Minn.—Minnesota Supreme Court Reports.
Mo.—Missouri Supreme Court Reports.
Nebr.—Nebraska Supreme Court Reports.
N. Dak.—North Dakota Supreme Court Reports.
N. W.—Northwestern Reporter.
Pac. Rep.—Pacific Reporter.
R. L.—Revised Laws.
R. S.—Revised Statutes.
S. Dak.—South Dakota Supreme Court Reports.
Stats.—Statutes.
Sup.—Supplement.

LETTERS OF TRANSMITTAL.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, November 29, 1912.

SIR: I have the honor to transmit herewith Part IV of a Report of the Commissioner of Corporations on Taxation of Corporations, said part dealing with the systems of corporate taxation in the States of Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri.

Very respectfully,

CHARLES NAGEL,
Secretary.

The PRESIDENT.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF CORPORATIONS,
Washington, November 29, 1912.

SIR: I have the honor to transmit herewith Part IV of a Report on Taxation of Corporations, made to the President under your direction, and in accordance with the law creating the Bureau of Corporations. This part deals with the systems of corporate taxation in the States of Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri.

I desire to mention as especially contributing to the preparation of this report, Mr. M. Markham Flannery of this Bureau.

Very respectfully,

LUTHER CONANT, Jr.,
Commissioner.

To Hon. CHARLES NAGEL,
Secretary of Commerce and Labor.

LETTER OF SUBMITTAL.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF CORPORATIONS,
Washington, November 29, 1912.

SIR: I have the honor to submit herewith Part IV of the Bureau's Report on State Taxation of Corporations. This part deals with the Western Central States, namely, Minnesota, North Dakota, South Dakota, Nebraska, Iowa, Kansas, and Missouri. Parts I to III, already issued, covered the New England, Middle Atlantic, and Eastern Central States. The subject covered by Part IV is presented as of January 1, 1912.

This part of the report is presented in substantial uniformity of arrangement with the parts already issued, and like those it is almost entirely confined to a concise exposition of facts, with practically no conclusions as to theories of taxation. Such conclusions are reserved until the facts have been developed for other sections of the country.

Taking the Western Central States as a whole, a noteworthy feature of their tax systems is that they depend in the main upon the general property tax and rely to a comparatively small extent upon special taxes from corporations as compared with States in the three groups already studied. Minnesota is a notable exception, securing two-thirds of its revenue from special corporation taxes. Taxation of inheritances and of liquor privileges, which figure conspicuously both in the other groups as a whole and especially in individual States of those groups, forms, with practically a single exception (that of the liquor tax in Missouri), a very unimportant factor in the state revenues of the Western Central group.

Of corporation taxes in these western States, those from railroad companies are the most important, although insurance companies contribute largely to such taxes.

Another characteristic of taxation in these States is the almost universal failure to tax the "corporate excess" of mercantile

and manufacturing companies. Four States—Minnesota, North Dakota, South Dakota, and Kansas—have laws providing for such taxation, but either there is no attempt whatever to enforce them, or their application is a practical failure. Kansas, which ostensibly endeavors to enforce its corporate excess tax law, collects only about $13,000 annually from this source.

Each State in this group exempts shares of stock in the hands of holders when the property of the corporation is taxed in such State.

Minnesota is perhaps the most interesting member of this group. A conspicuous feature of its tax system is the taxation of gross earnings of railroad and other public-service corporations. The gross-earnings method is here applied more extensively and yields a greater percentage of state revenue than in any other State thus far studied. It is regarded by the State as one of the most satisfactory features of its tax system. The taxation of ore properties by Minnesota is another interesting feature. As a result of a new system, which taxes ore in the ground, the taxable value of such property and the revenue therefrom have increased enormously.

In contrast with the great dependence placed by Minnesota upon the gross-earnings method, the people of South Dakota in 1910 refused to adopt an amendment to the state constitution providing for such a tax. In that State the general property tax is the chief reliance, contributing 89 per cent of the total state—as distinguished from local—revenue from taxes, as against 10 per cent from special corporation taxes and fees, and 1 per cent from miscellaneous sources.

In North Dakota the general property tax is likewise the chief reliance, here also furnishing 89 per cent of the state tax revenue as against 11 per cent from special corporation taxes, fees, etc.

Nebraska, in 1910, secured 87 per cent of its total state tax revenue from the general property tax. Nebraska is the only State of this group which has a capital stock tax. This is levied at low graduated rates on issued capital stock, and is applicable to practically all corporations.

Kansas and Iowa secure 86 per cent and 70 per cent, respectively, of their state tax revenue from the general property tax. Missouri, however, obtains only 52 per cent from this source. The relatively low percentage from this tax in Missouri is apparently due to the large revenue from inheritance and liquor taxes.

Mention may be made of the severe restrictions on taxation imposed by the constitution of the State of Missouri. These restrictions, in the opinion of many, have seriously embarrassed the conduct of the State's finances.

Only two of these Western Central States—Minnesota and Kansas—have permanent tax commissions whose members devote their entire time to taxation matters. In the remaining States the tax boards are composed of state officials who usually can devote but a fraction of their time to such duties.

Separation of the sources of state from local revenue, although agitated in several States of this group, has not been carried far, except in Minnesota. In Missouri a proposed constitutional amendment providing for such a division of revenue was recently defeated.

Minnesota and Iowa have recently adopted the system of taxing intangible personalty at a low uniform rate. During the first year of the operation of this tax in Minnesota, assessments of intangible personalty increased more than ninefold. In other States where this tax has been adopted, namely, Connecticut, Pennsylvania, and Maryland, it has been found successful, not alone in equalizing to a very considerable degree the tax burden, but in yielding a materially increased revenue from property which in large measure formerly escaped taxation. It may be noted that the State of New York has recently endeavored to reach intangible personalty by its "mortgage recording" and "secured debts" taxes. These taxes impose a low rate, in reality a recording fee, on bonded and other secured indebtedness. They are, however, differentiated from low uniform rate taxes in that they are paid but once, the securities thus taxed being thereafter exempt from all further taxation.

The operation of the low uniform rate tax and a comparison of results obtained under it in different States are discussed in the introduction to this part of the report.

Very respectfully,

LUTHER CONANT, Jr.,
Commissioner of Corporations.

The PRESIDENT.

TAXATION OF CORPORATIONS IN THE WESTERN CENTRAL STATES.

INTRODUCTION.

This Report One of a Series.

This is the fourth number of a series of reports dealing with certain features of state taxation of corporations.

The purpose of this report, like that of each of its predecessors, is to describe the methods employed by each one of a group of States in taxing manufacturing, mercantile, transportation, and transmission corporations, and such securities as those corporations may issue.

The plan, as in preceding reports, is to deal with each State separately, and to present the facts as to each State in four subdivisions, the first giving a general view, the second giving the constitutional and statutory provisions in detail, with annotations covering the principal decisions of the courts, the third giving the financial results, and the fourth giving comments, largely based upon the reports or oral statements of state officials.

The starting point for the investigation has been, as heretofore, an examination of the various state constitutions and laws; but in this matter of taxation so much depends upon practice that before any of the material has been put into final form, each of these States, as was done in the case of each of the States in preceding reports, has been visited by a representative of the Bureau, with the result that from officials and other persons much information has been obtained which was not heretofore in print.

Scope of the Introduction to the Previous Reports.

In the introduction to the report regarding New England, the competing theories as to taxation in general were stated, and it was explained that the diversities in the modes of taxing corporations are due partly to the competition between those general theories, partly to difficulties peculiar to corporations, and partly to the difference between one kind of corporation and another.

In the introduction to the report on the Middle Atlantic States, it was shown that the diversities in the modes used by the several

States for taxing the same sort of corporation are so great as to tend to influence capitalists in their choice not only of the State wherein their projected company should be incorporated, but also the State in which the corporation should carry on its business; and besides to influence stockholders in their selection of a State of residence. In the same introduction a few of the problems underlying any attempt to frame a system of taxation for corporations were stated, without any suggestion of solutions, but rather with the idea that the mere statement of the problems would give rise to enlightening discussion.

In the introduction to the report on the Eastern Central States, there was a more minute presentation of some of the important problems as to the modes of measuring, collecting, and distributing corporate taxes, with special reference to the questions whether the machinery for such taxation should be local or state, and whether the proceeds should be used by the State or by the localities. There were accompanying tabular views, showing in considerable detail the methods employed by the States north of the Potomac and east of the Mississippi. Table D of the introduction to the present report consolidates these tables and extends them so as to cover the Western Central States, comprising this group.

Scope of the Introduction to this Report.

The present report carries the investigation almost to the Rocky Mountains: States containing much more than half of the population of the United States have now been studied—roughly speaking, the whole region north of the latitude of the city of Washington and east of Denver, covering 23 States and the District of Columbia. It might seem that it would now be practicable, in the light of the information gleaned from so wide a field, to outline some of the chief features of such a system of corporate taxation as would be approximately a composite photograph of the systems now in use, with indications here and there of reforms which by persons of experience have been suggested as desirable and practicable. This, however, is not attempted for the reason that still further information is needed. Instead, the taxation of intangible personal property at a low uniform rate is, by reason of public interest at the present moment and the increasing extent of its application, made a special feature of this introduction.

The Relative Importance of Taxation of Corporations.

In state, as distinguished from local, taxation, the ratio of taxes from corporations to other sources of state income is usually greater in the East than in the West. In 12 of the 24 jurisdictions covered by this report and its predecessors, the state tax on certain corporations was at least half of the income realized from state as distinguished from local taxation. The amounts and the ratios are presented in Table A. As explained in the introduction to the Eastern Central States, however, the amounts appearing in the first column of Table A are somewhat less than actual collections from corporations in certain States covered by the table, since there are no adequate data as to the amount received by the States from the local collection of the general property tax so far as it applies to corporations.

It will be seen from the table that the percentage of state taxes received from corporations is lower in this than in any other group thus far treated, and that a correspondingly higher percentage of state revenue is received from the general property tax. The only State of this group which receives more than 50 per cent of its total taxes from special taxation of corporations is Minnesota. Inheritance taxes are important in Iowa, Missouri, and Minnesota, yielding between 6 and 7 per cent of the state taxes. The liquor tax is large in Missouri only, where it yields 30 per cent.

TABLE A.—TOTAL STATE TAXES, AS DISTINGUISHED FROM LOCAL TAXES, WITH AMOUNTS AND PERCENTAGES CONTRIBUTED BY CERTAIN SPECIFIED SOURCES OF TAXATION, FOR 1910: NEW ENGLAND, MIDDLE ATLANTIC, EASTERN CENTRAL, AND WESTERN CENTRAL GROUPS.

[This table relates only to state revenue from taxation.]

States.	Corporation tax.	General property tax.	Inheritance tax.	Liquor tax.	Miscellaneous tax receipts.	Total state taxes.
NEW ENGLAND GROUP.						
Maine	$1,267,088	$804,997	$138,250	$113,558	$19,893	$2,343,786
New Hampshire	598,312	725,511	145,620	.....	76,686	1,546,129
Vermont	988,174	.....	88,969	59,989	62,963	1,200,095
Massachusetts	5,520,796	5,500,000	1,671,716	810,380	34,669	13,537,561
Rhode Island	926,041	840,421	.....	161,591	93,034	2,021,087
Connecticut	3,445,945	453,535	439,850	.....	520,874	4,860,204
MIDDLE ATLANTIC GROUP.						
NewYork	10,120,316	.....	8,212,736	9,589,779	[1] 7,516,955	35,439,786
New Jersey	6,717,580	.....	632,089	.....	59,506	7,409,175
Pennsylvania	17,254,588	[2] 1,108,475	1,803,088	1,752,982	2,451,080	24,370,213
Delaware	319,675	.....	1,778	.....	151,962	473,415
Maryland	1,179,867	1,224,000	293,994	434,660	471,688	3,604,209
District of Columbia	[3] 971,977	4,416,171	.....	458,275	121,910	5,968,333
EASTERN CENTRAL GROUP.						
Ohio	[3] 5,764,507	2,646,465	16,757	2,079,039	160,463	10,667,231
Indiana	[3] 1,420,849	6,109,254	.....	.....	.....	7,530,103
Illinois	[3] 2,820,255	4,836,592	556,257	.....	159,857	8,372,961
Michigan	5,387,530	6,112,436	258,320	18,208	117,152	11,893,646
Wisconsin	4,155,492	1,254,561	283,567	.....	132,023	5,825,643
WESTERN CENTRAL GROUP.						
Minnesota	5,373,414	2,160,636	508,882	53,754	38,909	8,135,595
North Dakota	[3] 387,640	1,207,774	.....	.....	3,841	1,599,255
South Dakota	[3] 273,776	1,242,423	4,143	.....	17,464	1,537,806
Iowa	[3] 863,296	2,070,757	215,473	.....	166,811	3,316,337
Nebraska	[3] 660,777	1,945,052	.....	.....	9,309	2,615,138
Kansas	[3] 941,655	2,087,482	8,828	.....	.....	3,037,965
Missouri	[3] 1,031,574	[4] 2,294,000	314,288	1,577,907	31,528	5,249,297

[1] Of this amount, $4,635,443.20 came from stock-transfer tax and $1,931,848.39 from mortgage tax.

[2] Tax on personal property.

[3] Includes State's share of general property tax collected locally from certain corporations. (See table of financial results under each State.) With the exception of the District of Columbia, as previously noted it is impossible, practically, to ascertain or estimate from the information available the amount thus received from corporations in the States included in this table.

[4] Includes some miscellaneous license fees.

TABLE A.—TOTAL STATE TAXES, AS DISTINGUISHED FROM LOCAL TAXES, WITH AMOUNTS AND PERCENTAGES CONTRIBUTED BY CERTAIN SPECIFIED SOURCES OF TAXATION FOR 1910: NEW ENGLAND, MIDDLE ATLANTIC, EASTERN CENTRAL, AND WESTERN CENTRAL GROUPS—Continued.

PER CENT OF TOTAL STATE TAXES.

States.	Corporation tax.	General property tax.	Inheritance tax.	Liquor tax.	Miscellaneous tax receipts.	Total state taxes.
NEW ENGLAND GROUP.						
Maine	54	34	6	5	1	100
New Hampshire	39	47	9	.....	5	100
Vermont	82	.....	8	5	5	100
Massachusetts	41	41	12	6	.....	100
Rhode Island	46	41	.....	8	5	100
Connecticut	71	9	9	.....	11	100
MIDDLE ATLANTIC GROUP.						
New York	29	.....	23	27	[1] 21	100
New Jersey	91	.....	8	.....	1	100
Pennsylvania	71	5	7	7	10	100
Delaware	67	.....	1	.....	32	100
Maryland	33	34	8	12	13	100
District of Columbia	[1] 16	74	.....	8	2	100
EASTERN CENTRAL GROUP.						
Ohio	[1] 54	25	.....	20	1	100
Indiana	[1] 19	81	.....	.....	.....	100
Illinois	[1] 34	58	6	.....	2	100
Michigan	45	52	2	.....	1	100
Wisconsin	71	22	5	.....	2	100
WESTERN CENTRAL GROUP.						
Minnesota	66	27	6	1	.....	100
North Dakota	[1] 24	76	.....	.....	.....	100
South Dakota	[1] 18	81	.....	.....	1	100
Iowa	[1] 26	62	7	.....	5	100
Nebraska	[1] 25	74	.....	.....	1	100
Kansas	[1] 31	69	.....	.....	.....	100
Missouri	[1] 20	43	6	30	1	100

[1] Includes State's share of general property tax collected locally from certain corporations. (See table of financial results under each State.) With the exception of the District of Columbia, as previously noted, it is impossible, practically, to ascertain or estimate from the information available the amount thus received from corporations in the States included in this table.

The Great Importance of Railway Taxation.

In this, as in the three groups preceding, the most important source of income from the taxation of corporations is from railroads. The details as to the amounts and as to the ratios among the various classes of corporations are given in Table B, which is an analysis of the items appearing in the first column of Table A, and shows the classes of corporations respecting which it was possible to ascertain or estimate the taxes accruing to the State

TABLE B.—STATE TAXES—AS DISTINGUISHED FROM LOCAL TAXES—WITH PERCENTAGES, CONTRIBUTED BY CERTAIN CLASSES OF CORPORATIONS, FOR 1910: NEW ENGLAND, MIDDLE ATLANTIC, EASTERN CENTRAL, AND WESTERN CENTRAL GROUPS.

[The absence of amounts and percentages in any column does not necessarily indicate that no taxes are paid for state purposes by the classes of corporations named at the head of such column; because it is frequently impossible to separate such payments from amounts appearing under the heading "Miscellaneous companies."]

States.	Railroad companies.	Car companies.	Express companies.	Telegraph and telephone companies.	Manufacturing companies.	Insurance companies.	Financial companies.	Miscellaneous companies.	Corporation fees.	Total taxes and fees from corporations.
NEW ENGLAND GROUP.										
Maine	$490,407	$1,612	$20,510	$57,987	.....	$148,857	$282,472	$360	$264,883	$1,267,088
New Hampshire	466,081	2,459	6,254	30,722	.....	92,766	.....	.....	30	598,312
Vermont	272,203	1,657	7,000	20,631	.....	142,069	509,433	2,650	32,531	988,174
Massachusetts	661,807	.....	13,848	454,505	$553,749	1,075,499	2,305,439	334,790	121,159	5,520,796
Rhode Island	95,915	.....	750	15,408	.....	306,183	484,035	.....	23,750	926,041
Connecticut	1,794,574	.....	17,532	94,017	.....	580,208	610,794	160,500	188,320	3,445,945
MIDDLE ATLANTIC GROUP.										
New York	2,274,454	9,937	68,236	396,892	.....	1,810,718	134,092	[1] 4,908,381	517,606	10,120,316
New Jersey	3,721,980	.....	.....	.....	.....	236,714	.....	[2] 2,589,476	169,410	6,717,580
Pennsylvania [3]	7,085,815	9,525	19,274	410,113	1,495,775	1,667,307	2,199,239	[4] 3,216,448	1,151,092	17,254,588
Delaware	107,000	.....	2,779	10,732	.....	65,056	.....	95,419	38,689	319,675
Maryland	539,376	1,542	3,542	47,830	57,011	261,641	94,422	148,582	25,921	1,179,867
District of Columbia	363,793	.....	.....	61,741	222,556	89,502	221,356	13,029	.....	971,977
EASTERN CENTRAL GROUP.										
Ohio	1,966,500 [6] 229,275	21,781	42,378 [6] 1,635	146,172 [6] 24,024	342,900	1,274,945	7,535 [6] 123,054	[5] 1,139,157 [6] 174,297	270,854	5,764,507
Indiana	[6] 725,632	6,617 [6] 2,899	[6] 2,095	[6] 41,304	.....	473,667	14,312	9,964 [6] 33,692	110,667	1,420,849
Illinois	1,197,280 [6] 652,801	.....	.....	.....	.....	459,323	.....	[6] 123,880	386,971	2,820,255
Michigan	4,398,810	33,880	26,607	344,757	.....	483,610	.....	5,910	93,956	5,387,530
Wisconsin	3,226,649	9,476	9,401	74,764	.....	728,663	10,512	455	95,572	4,155,492

WESTERN CENTRAL GROUP.										
Minnesota	4,458,912	16,915	37,011	185,175	.....	446,899	23,132	107,055	98,315	5,373,414
North Dakota	[6] 209,531	1,084	[6] 1,649	[6] 6,421	.....	140,024	.....	.....	28,931	387,640
South Dakota	[6] 122,000	168	1,702	5,162	.....	[9] 125,053	.....	.....	19,691	273,776
Iowa	[6] 252,417	8,453	[6] 1,433	[6] 14,121	.....	399,177	19,224	.....	168,471	863,296
Nebraska	[6] 300,671	[6] 1,649	.....	[7] 7,205	.....	133,004	14,836	27,254 [6] 26,270	[8] 149,888	660,777
Kansas	[6] 471,086	15,993	13,293	[6] 13,206	.....	274,534	31,639	28,988 [6] 50,471	42,445	941,655
Missouri	[6] 271,617	8,626	17,092	[6] 17,940	.....	369,812	32,233	[6] 143,579	170,675	1,031,574

PER CENT OF TOTAL STATE CORPORATION TAXES.

NEW ENGLAND GROUP.										
Maine	38	.....	2	5	.....	12	22	.....	21	100
New Hampshire	78	.....	1	5	.....	16	.....	.....	.....	100
Vermont	27	.....	1	2	.....	14	52	.....	4	100
Massachusetts	12	.....	.....	8	10	20	42	6	2	100
Rhode Island	10	.....	.....	2	.....	33	52	.....	3	100
Connecticut	52	.....	.....	3	.....	17	18	5	5	100
MIDDLE ATLANTIC GROUP.										
New York	22	.....	1	4	.....	18	1	49	5	100
New Jersey	55	.....	.....	.....	.....	3	.....	39	3	100
Pennsylvania[3]	41	.....	.....	2	9	10	13	18	7	100
Delaware	34	.....	1	3	.....	20	.....	30	12	100
Maryland	46	.....	.....	4	5	22	8	13	2	100
District of Columbia	37	.....	.....	7	23	9	23	1	.....	100

[1] A considerable part of this comes from financial companies. (See State Auditor's Report, 1910.)
[2] License or franchise tax from corporations other than railroads, canals, banks, and certain manufacturing companies.
[3] The Pennsylvania figures in this table are taken from State Auditor's Report, 1910.
[4] Coal, gas, land, water, and miscellaneous business corporations.
[5] Mostly capital stock tax from corporations other than public utility and certain financial companies.
[6] General property tax estimated to have been paid by corporations.
[7] General property tax. Includes express companies.
[8] $61,006 of this amount comes from capital stock tax or occupation fee.
[9] $7,715 of this amount is from the fire marshal's fund.

TABLE B.—STATE TAXES—AS DISTINGUISHED FROM LOCAL TAXES—WITH PERCENTAGES, CONTRIBUTED BY CERTAIN CLASSES OF CORPORATIONS, FOR 1910: NEW ENGLAND, MIDDLE ATLANTIC, EASTERN CENTRAL, AND WESTERN CENTRAL GROUPS—Continued.

PER CENT OF TOTAL STATE CORPORATION TAXES—Continued.

States.	Railroad companies.	Car companies.	Express companies.	Telegraph and telephone companies.	Manufacturing companies.	Insurance companies.	Financial companies.	Miscellaneous companies.	Corporation fees.	Total taxes and fees from corporations.
EASTERN CENTRAL GROUP.										
Ohio	38	.....	1	2	6	22	3	23	5	100
Indiana	51	1	.....	3	.....	33	1	3	8	100
Illinois	66	.....	.....	.....	.....	16	.....	4	14	100
Michigan	82	1	1	7	.....	9	.....	.....	.....	100
Wisconsin	78	.....	.....	2	.....	18	.....	.....	2	100
WESTERN CENTRAL GROUP.										
Minnesota	83	.....	1	4	.....	8	.....	2	2	100
North Dakota	54	.....	1	2	.....	36	.....	.....	7	100
South Dakota	44	.....	1	2	.....	46	.....	.....	7	100
Iowa	29	1	.....	2	.....	46	2	.....	20	100
Nebraska	46	.....	.....	1	.....	20	2	8	23	100
Kansas	50	2	1	1	.....	29	3	9	5	100
Missouri	26	1	2	2	.....	36	3	14	16	100

Importance of Definite Rules for Valuing Railways.

It has been found in many States, among them some of the States covered by the present report, that the central official body which values railways for purposes of taxation has no system capable of statement. The officials take into account mileage, double trackage, sidetracks, cars, expenses, indebtedness, market value of shares, and so on; and in some way they combine these various elements and make up an opinion as to the railway's taxable value. Yet, so great is the difficulty of solving such a problem, that they can not explain how they solve it. The difficulty of the problem is perceptible enough, but it is equally clear that a solution—or, at least, an accurate solution—is not facilitated by approaching the problem without any rule. While the officials may have some rule in mind, in many instances they have not yet found a rule which is so satisfactory to them as to be expediently stated as a final test of the fairness of their results. There is no occasion for commenting unfavorably upon the failure to announce a rule not yet fully existent, nor upon the delay in finding a rule that is satisfactory. The difficulties of the case are an adequate defense. Yet what is very important is to notice that as yet there is no exact rule, and that there must be one some day, and that the rule, when adopted, should be made public. Here is a place where publicity is the best and, indeed, the only guard against inaccuracy, unfairness, and suspicion.

Corporate Excess System not Successful when Administered by Local Officials.

In the group described in the present report it is noticeable that there are several States which have adopted in some form the corporate excess system, which involves determining the market value of a corporation's shares; that each of them administers this system through local officials, and that each of them reports the system as practically unproductive of revenue. In the States examined for previous reports, the corporate excess system is used by several, is administered by central state officials, and is productive. Perhaps the instances observed are not sufficiently numerous to furnish a generalization wholly free from criticism; but certainly the strong probability is that a corporate excess system should be controlled not by local officials but by state officials. Local administration of such a system certainly has the serious disadvantage of putting it in the power of localities to attract corporations by laxness, and thus to place upon other localities an unfair burden; and hence,

even if local administration did not in fact turn out to be as unsuccessful as it appears, there would be adequate reason for placing this matter in the hands of the State. There is no agreement on the question whether the corporate excess system is desirable, but there certainly can be no question that when it is cast in such form as to be unenforceable it ought to be amended or abolished.

Advisability of a Low Rate on Intangible Personalty.

The impossibility of procuring adequate returns as to intangible personal property has recently led two of the States of this group, Minnesota and Iowa, to adopt as to certain classes of intangible personal property a special rate. This method of taxing intangible personalty was previously adopted in Pennsylvania, Connecticut, and Maryland; and as far as figures can be ascertained the result in each State is to increase assessments very considerably. There is a great variety in the rates applied, in the purposes for which the revenue is collected, and in the yield of revenue. In one important particular, however, the method has been found uniformly successful, namely, in equalizing to a very considerable degree the tax burden imposed upon this class of property. Thus, in Minnesota, while the tax yields of 1910 and 1911 were approximately the same, yet the tax was borne in 1911 by more than nine times as much property as was returned in 1910.

Basis of Table C.

The lack of uniformity in the methods of applying this system prohibits a comparison of revenue for state purposes only. For this reason Table C, following, is based primarily upon a consideration of the tax burden as borne by the property rather than upon the effect of the system as supplying revenue to particular divisions of government.

The object of the table is to show the effect of the uniform rate upon assessments and revenue in those States wherein it has been adopted. The years and periods of years selected for this purpose and shown in the table for each State are: (1) The year immediately preceding the inauguration of the uniform rate; (2) the year or period within which the uniform rate became effective; (3) the year or period which preceded any change in the uniform rate; (4) the year or period within which such change became effective; and (5) the last year for which data are obtainable. An exception to item (1) of this statement is found in Pennsylvania, where as early as 1831 certain kinds of intangible property were taxed at a specified low rate, but it was not until 1885 that the

laws were codified so as to make it clear that all intangible personalty was exempt from taxation under the local rate. In this year more efficient machinery was put in operation for the collection of the tax, and the full effect of the uniform rate system is probably first shown in 1886.

As a better index to the measure of normal increase, it has been deemed advisable in three instances to use yearly averages instead of actual assessments and receipts. In the first instance they are based on the period of five years which preceded the change, in 1892, from the $3 to the $4 rate in Pennsylvania. In the second, they are based on the period of five years beginning with and including 1892, the year in which this changed rate became effective. In the two instances the use of periods instead of specific years is chosen because a very considerable amount of taxes was withheld for two or three years pending settlement of litigation. The third instance occurs in connection with Connecticut. Here the yearly averages for assessments and receipts are based on the seven years during which the $2 rate was in effect. These averages are used instead of the actual figures for the specific year in which the rate became effective, namely, 1890, because many taxes during 1890 were paid in advance for five years. A comparison of figures for specific years in any of the three cases cited would not represent normal conditions.

Certain exceptions to the broad application of the uniform rate method of taxing intangible personalty have not been considered in the table. Thus, property ordinarily subject to the uniform rate is not subject thereto when owned by corporations paying special taxes in lieu of all other taxes. Under this head would come corporations in Pennsylvania which pay the capital stock tax on their entire capital; and again in Minnesota certain moneys and credits when held by banks are not subject to the uniform rate, but this same property would be subject thereto if held by an individual or by certain classes of corporations.

TABLE C.—SHOWING RESULTS, BY AMOUNTS AND PERCENTAGES, OF TAXING INTANGIBLE PERSONAL PROPERTY AT A LOW UNIFORM RATE.

[The years and periods of years shown are: (1) The year immediately preceding the inauguration of the uniform rate; (2) the year or period within which the uniform rate became effective; (3) the year or period which preceded any change in the uniform rate; (4) the year or period within which such change became effective; and (5) the last year for which data are obtainable.]

States in which low-rate acts have been passed, and kinds of intangible personal property subject thereto.	Year or period.	Assessments.	Rates per $1,000.	Revenue.	Increase (+) or decrease (−) over previous given date.		Collected by—	State's portion of taxes received from low uniform rate.	Citation.
					Assessments.	Taxes.			
PENNSYLVANIA.[1]					*P. cent.*	*P. cent.*			
All kinds except shares of stock of domestic and foreign corporations whose assets are taxed in Pennsylvania.	1885	$155,107,000	[2] $3.00 [2] 4.00	$610,608	.....	.....	State treasurer, taxes on corporate loans; local officers, taxes on other intangible property.	All on corporate loans; one-fourth from other intangible property.	Laws, 1885, pp. 193, 194; Laws, 1889, p. 420; Laws, 1891, p. 229.
	1886	390,750,000	[2] 3.00	1,172,250	+152	+ 92			
	Average, 1887–1891, inclusive.	613,399,000	[2] 3.00	1,840,198	+ 57	+ 57			
	Average, 1892–1896, inclusive.	839,565,000	[2] 4.00	3,358,260	+ 37	+ 82			
	1910	1,741,865,000	[2] 4.00	6,967,460	+107	+107			
CONNECTICUT.									
All kinds except shares of stock and except bonds of steam and street railways operating in Connecticut.	1889	[3] 12,983,000	[4] 12.50	162,288	.....	.....	State treasurer, taxes at low rate; local officers, general property tax.	All of taxes at low rate; state's share of general property tax.	Acts, 1889, p. 161, sec 9; Acts, 1897, p. 920.
	Average, 1890–1897, inclusive.	22,890,000	[2] 2.00	69,798	.....	.....			
		[3] 4,946,000	[4] 12.80	63,309	.....	.....			
		27,836,000	.....	133,107	+114	− 18			
	1898	20,638,000	[2] 4.00	87,177	.....	.....			
		[3] 3,319,000	[4] 13.00	43,147	.....	.....			
		23,957,000	.....	130,324	− 14	− 2			
	1910	40,993,000	[2] 4.00	167,796	.....	.....			
		[3] 4,350,000	[4] 14.125	61,444	.....	.....			
		45,343,000	.....	229,240	+ 89	+ 76			

MARYLAND.[5]									
Interest-bearing obligations (except mortgages in most counties) of all corporations, and dividend-paying shares of foreign corporations.	1896	[6] 6,000,000	[4] 21.775	[6] 130,650			Local officers	Amount obtained by applying state rate.	Laws, 1896, chap. 143; Poe's Code of 1904, art. 81, sec. 210.
	1897	[6] 58,704,000	[2] 3.00 [7] 1.775	[6] 280,312	+878	+115			
	1911	[6] 165,834,000	[2] 3.00 [7] 2.20	[6] 862,337	+182	+208			
MINNESOTA.									
All kinds, except shares of stock, and except mortgages upon which recording tax has been paid and obligations secured by same.	1910	[8] 13,137,000	[4] 27.92	366,785					
	1911	122,167,000	[2] 3.00	366,501	+829		do	One-sixth	Laws, 1911, chap. 285.
IOWA.									
All kinds, except practically all shares of stock.	1911	([9])	[2] 5.00				County treasurer	State's pro rata share	Laws, 1911, chap. 63, amending sec. 1310 of 1897 code.

[1] Figures showing assessments and revenue taken from Auditor's Reports, 1885 to 1910, inclusive.

[2] Low uniform rate, namely, "low" as compared with the combined state, county, and municipal rates to which this property was formerly subject, and "uniform" throughout the State on these classes of intangible property.

[3] These general property assessment figures are given for the years previous to the date in the table, for the reason that the taxes are paid the year after the assessment, and it is desired to add the actual general property receipts to those low-rate taxes that were received the same years, as given in Tax Commissoner's Report, 1910, p. 171. Other figures used with reference to Connecticut are based on correspondence with the Tax Commissioner.

[4] Combined state, county, and local rates.

[5] The Pennsylvania law has the following advantages over the Maryland law, according to Judge Oscar Leser, president appeal tax court, Baltimore: "(*a*) The total rate of tax *is* fixed; (*b*) the rate is smaller and therefore is calculated to produce larger returns on these forms of property; (*c*) apportionment of the tax between the State and the localities is fairer." He adds, however, that "the Pennsylvania law includes local mortgages, while in Maryland (with the exception of a few counties) such mortgages have been exempted since 1904."

[6] Figures for Baltimore only. Figures for the State are not available. The bulk of intangible property—mortgages being generally exempt—is doubtless held in Baltimore. Assessments and receipts for 1896 are taken from the Report of Advisory Committee on Taxation and Revenue to Mayor of Baltimore, 1908, p. 145, note; those for 1897 from same report, p. 145; those for 1911 from official correspondence.

[7] State rate.

[8] Assessments and revenue figures secured from state officials.

[9] The 1911 law sec. 8, forbids application of the low rate to the 1911 levies.

Low Rate on Intangible Personalty in Minnesota and Iowa.

In 1911 Minnesota and Iowa adopted the uniform-rate method. Minnesota in 1911 increased assessments 829 per cent over those of the previous year without, however, increasing the revenue.

Data showing results of the operation of the uniform-rate law in Iowa are not yet obtainable, as the law forbids the application of the uniform rate to the 1911 levies. A peculiar feature of this law is seen in an interpretation by the state auditor in his instructions to assessors. He directs that intangible personalty subject to the uniform rate shall be assessed at full value. It would seem that assessment of this property at full value while other property is by statute assessable at one-fourth value would defeat, in part at least, a chief purpose which prompts the adoption of the low-rate method, namely, the inducement of greater returns by the imposition of lighter taxation.

Low Rate on Intangible Personalty in Pennsylvania, Connecticut, and Maryland.

The effect of reducing the rate on intangible personalty and providing improved administrative machinery in Pennsylvania is shown in an increase in assessments from $155,107,000 in 1885 to $390,750,000 in 1886, or 152 per cent; at the same time revenue increased from $610,608 to $1,172,250, or 92 per cent. The average increase for the five years following (1887–1891) was 57 per cent in both assessments and receipts. In 1892 the rate was changed from $3 to $4. During the five years following (1892–1896) the average assessments increased to $839,565,000, or 37 per cent, and revenue increased to $3,358,260, or 82 per cent. In 1910 assessments amounted to $1,741,865,000 and revenue to $6,967,460, an increase in each case of 107 per cent over the yearly average for the 1892–1896 period.

The Connecticut plan gives the option of paying locally the general-property tax at the regular rates. Amounts assessed and paid locally are shown separately from those assessed and paid to the State at the uniform rate. The percentage of increase is, however, based on the total of both. The low uniform rate was adopted by the State of Connecticut in 1890. For the following seven-year period (1890–1897) the average yearly assessments increased over the assessments for 1889 from $12,983,000 to $27,836,000, or 114 per cent, while revenue decreased from $162,288 to $133,107, or 18 per cent. During 1898 the uniform rate was raised to $4. This resulted in decreasing assessments 14 per cent

and decreasing revenue 2 per cent. This decrease, however, was overcome, and in 1910 assessments amounted to more than $45,000,000, an increase over 1898 of 89 per cent, and revenue to approximately $230,000, or an increase of 76 per cent during this period.

Figures for the entire State of Maryland are not available, and those given in the table are for the city of Baltimore only. The effect of the inauguration of the low rate in 1897 was to increase assessments from $6,000,000 to $58,704,000, or 878 per cent, and revenue from $130,650 to $280,312, or 115 per cent over the previous year. Between 1897 and 1911 assessments increased to $165,834,000, or 182 per cent, and revenue increased to $862,337, or 208 per cent.

New York Method of Treating Intangible Personalty.

In 1911 New York extended its method of commuting taxes on certain classes of intangible personal property through the "Secured Debts" law. As noted in Part II, under the "Mortgage-Recording Tax" law, bonds and other obligations secured by New York realty mortgages upon which the recording tax has been paid are exempt from all other taxation. The "Secured Debts" law provides a tax of one-half of 1 per cent on the face value of bonds, notes, and other debts secured by mortgages of property in any State other than New York. This tax is for state purposes, and, like the mortgage-recording tax, when paid once, it exempts such secured debts from further state, county, or municipal taxation. While the rate charged for such commutation is low—very low, indeed, when the life of a bond or other secured debt extends over a long period of years—clearly it is not an equivalent of an annual rate, for the term of years may vary with each secured debt. Hence it can not be considered as a low uniform rate tax, and it has not been so treated in this discussion.

Kinds of Intangible Personalty Subject to the Low Rate Method.

Pennsylvania, Minnesota, and Iowa tax at a uniform rate practically all kinds of intangible personalty, with the few exceptions noted in the text and in the table. In Maryland the rate applies to interest-bearing obligations of all corporations and also to dividend-paying shares of foreign corporations. In Connecticut there are important exceptions. Bonds of steam and street railways operating in that State are considered in taxing the corporate excess of such companies, and they are not taxable to the holder

under the uniform rate. Shares of stock are not taxable in Connecticut. This probably explains in some measure the seemingly unfavorable showing with respect to assessments for the whole State of Connecticut as compared with those for the city of Baltimore, namely, in 1910 the Connecticut assessment was a little more than $45,000,000, while that for the city of Baltimore exceeded $158,000,000.

Collection and Distribution of the Low Rate Taxes.

In Pennsylvania, the State collects and retains all the taxes on corporate loans and receives one-fourth of the tax on other intangible personalty, which is collected locally. In Connecticut, the State collects and retains all of the tax. In Maryland, the uniform rate is collected and retained by the locality; and the same property is subject to the state rate on general property. In Minnesota it is collected locally, and one-sixth is transmitted to the State. In Iowa it will be collected locally and distributed for both state and local purposes in the same manner as the tax on general property.

Success of the Low Rate Method.

During the 12-year period (1898–1910) the percentages of increase in assessments for three States were as follows: Pennsylvania, 95 per cent; Connecticut, 89 per cent; Maryland (for Baltimore only), 161 per cent. The percentages of increase in revenue during the same period were: Pennsylvania, 95 per cent; Connecticut, 76 per cent; and Maryland (for Baltimore), 152 per cent.

Looking only at the results obtained in Baltimore (those for the whole State not being available), the low uniform rate method of taxing intangible personalty may be regarded as having worked more successfully in Maryland than in Pennsylvania and Connecticut, notwithstanding the higher Maryland rate.

Notwithstanding this favorable showing in Maryland, it is inferable from an official report [1] that much intangible personalty which is subject to the uniform rate law still escapes taxation in that State.

Minnesota has the lowest, and Maryland (including the state tax) has the highest rate on such intangible property.

[1] Report of the Advisory Committee on Taxation to the Mayor of Baltimore, 1908, p. 147.

Importance of Uniformity Throughout the United States.

The introductions to the preceding reports have emphasized the lack of uniformity in methods of taxation as between the States. It is hardly necessary to give new instances of that diversity. Anyone who doubts that the diversity exists can easily satisfy himself by examining any one of the previous introductions, particularly the introduction to the report on the Eastern Central States, or by examining in the present report Table D, by which the same information, in a rather different form from that found in Tables B and C of the report on the Eastern Central States, is presented as to all the States now covered.

This table forms the basis for an adequate general conception of the prevalence of the different forms of taxation applied to the six classes of corporations mentioned. Footnotes have been added giving the most important variations in the extent or method of application of certain taxes, (1) to the different corporations in the same State, (2) to the same class of corporations in different States, (3) to foreign as distinguished from domestic corporations, etc.

Some of the disadvantages of such diversities as are shown in this table were pointed out in the introduction to the report on the Middle Atlantic States. Such diversities tend to cause a disproportionate number of corporations to be organized in certain States, and to encourage carrying on corporate business in certain States, not necessarily the same ones; and to induce the owners of corporate securities to reside in certain States, these again not necessarily being the States where corporations find it to their advantage to organize or to do business. This artificial interference with the natural trend of business is open to many objections, and, aside from these, there can be no doubt that the diversity of systems of taxation in some instances produces very marked inequality. The resident of Massachusetts owning foreign stocks and bonds is taxable on both, but the resident of Wisconsin is taxable on the bonds only, and the resident of the District of Columbia is taxable on neither. Such diversities tend to encourage the capitalist to treat securities, no matter what the law may be, as morally nontaxable.

From every point of view it seems clear that systems of taxation, and especially systems of taxing corporations and corporate securities, should be substantially uniform throughout the United States.

ABSTRACT BY STATES.

Minnesota.

Approximately 66 per cent of the Minnesota state (as distinguished from local) taxes, which amount to more than $8,000,000 annually, is paid by corporations assessed by the State.

The gross-earnings tax is more extensively used in this than in any other State thus far studied. It applies to railroad, car, telephone, and express companies, and in 1910, 57 per cent of the total taxes for state purposes was raised by this method. As in the Maine system, interstate earnings, except express company earnings, are used as a measure of value. Express companies are taxed on purely state earnings less transportation charges paid to railroads, but at a comparatively high rate.

Mining property is classified and assessments are levied on the value of ore in the ground. Under this method assessments have increased from $70,000,000 in 1906 to about $222,000,000 in 1910, a gain of more than $152,000,000, or 217 per cent. In 1910, 18 per cent of the State's share of the general property tax came from mining property. The greater part of this was from one county.

Minnesota has followed Pennsylvania, Maryland, and Connecticut in adopting, in 1911, a low uniform rate on intangible personalty. As a result, the assessed value of this class of property rose from $13,000,000 in 1910 to $122,000,000 in 1911, an increase of $109,000,000.

The Minnesota constitution requires any repeal or amendment of laws taxing railroads on the gross-earnings basis to be submitted to a vote of the people. As to the taxation of other corporate property, legislative power is not so restricted.

The largest single item of state revenue from taxation in 1910 was from railroads, approximately $4,500,000, or 55 per cent; general property, a little over $2,000,000, or 27 per cent; inheritances, about $500,000, or 6 per cent; and liquor taxes, $50,000, or less than 1 per cent.

North Dakota.

The total state, as distinguished from local, revenue from taxation in 1910 was approximately $1,600,000. Of this amount 24

per cent was from corporations assessed by the State. Taxes paid by other corporations can not be estimated.

With remarkably few exceptions, such as the taxation of insurance companies on premiums received, North Dakota depends entirely upon the general property tax.

A central state board assesses steam and street railroad, express, car, telegraph, and telephone companies. After assessment all, except car companies, are taxed in the same manner as individuals, the legislature never having acted under the constitutional provision permitting the taxation of railroads on gross earnings.

Because of the impracticability of distributing comparatively small assessments among numerous minor taxing districts, freight car companies, according to custom, are taxed by the State for state purposes.

The statutes provide for the local assessment of corporate excess; but, as in other States of this group, the excess is seldom, if ever, reached.

The State's share of taxes collected in 1910 was approximately as follows: From railroads, $210,000; from insurance companies, $140,000; from certain other corporations, $9,000; from corporation fees, $29,000; and from general property, $1,200,000.

South Dakota.

State, as distinguished from local, revenue from taxation is a little more than $1,500,000 annually. Approximately 18 per cent of this is from corporations assessed by the State. Taxes assessed locally can not be estimated.

South Dakota depends almost wholly on the general-property tax. This tax is, however, slightly differentiated from its application in North Dakota inasmuch as certain corporations are taxed at the average of all tax rates, and collection in such cases is by the State for state and local purposes. Another distinguishing feature is that a consideration of gross earnings forms the chief factor in determining the intangible value of express, telegraph, and sleeping car companies assessed by the State.

Following somewhat the Michigan-Wisconsin plan, South Dakota recently completed a physical valuation of railroads. The chief difference in method, however, is that South Dakota placed no valuation on the intangible assets of any company, while in the Michigan and Wisconsin valuations careful consideration was given to all factors entering into nonphysical elements of railroad valuation.

The State's share of taxes collected in 1910 was approximately as follows: General property (including some corporate property), $1,242,400; insurance companies, $125,000; railroads, $122,000; express, telephone, telegraph, and car companies, $7,000; corporation fees, $19,700; inheritances, $4,000.

Iowa.

State, as distinguished from local, revenue in Iowa amounts to approximately $3,300,000 annually. Of this, corporations assessed by the State contribute a little more than $863,000, or about 26 per cent.

In Iowa, and also in Nebraska, property is by law assessed at a fraction of its actual value. The statutes of Iowa provide for assessments at 25 per cent, those of Nebraska at 20 per cent; those of Illinois (as shown in Part III) at 33⅓ per cent of full value.

Centralization of administration has progressed to the extent that the more important public-service corporations, namely, those conducting interstate and state-wide transportation and transmission business, are assessed by a central state body.

The only taxes levied solely for state purposes are upon freight car and equipment and insurance companies. All other corporations are taxed locally for state and local purposes.

The largest items of state, as distinguished from local, revenue from taxation in 1910 were: General property, about $2,000,000, or 62 per cent; certain classes of corporations, $864,000, or 26 per cent; and inheritances, $215,000, or 7 per cent. Of the State's share (about $864,000) of taxes from corporations, approximately $400,000 is from insurance companies, $252,000 from railroads, $43,000 from certain other classes of corporations, and $168,500 from corporation fees.

Nebraska.

State, as distinguished from local, revenue from taxation is approximately $2,600,000 annually. About 25 per cent, or $660,000, is from certain classes of corporations, namely, railroad, car, express, telegraph, telephone, insurance, financial, and miscellaneous companies. Taxes paid by other corporations can not be estimated.

The distinguishing feature of the Nebraska tax system is the terminal tax act, the purpose of which is to allow incorporated cities and villages more adequate tax receipts on valuable railroad property, such as terminals, than can be obtained under the unit rule of assessment.

Nebraska is the only State of this group which has a capital-stock tax. This tax is in the nature of an occupation fee, applicable to all corporations for profit except financial companies. It is based on subscribed capital stock at low graduated rates and yields about $61,000 annually.

Of the States thus far discussed, Nebraska alone retains the method of assessing locally express, telegraph, and telephone companies. The only corporations assessed by the state board are railroad and car companies.

Of the State's share of taxes from corporations (about $660,000) approximately $300,000 is from railroads and $133,000 is from insurance companies.

Kansas.

State, as distinguished from local, revenue from taxation was in 1910 approximately $3,000,000. About 31 per cent of this was from corporations assessed by the State. Taxes paid by other corporations can not be estimated.

Of the States of this group, Kansas probably has the most highly centralized and effective system of assessments. The state board has large powers of equalization, assessment, and supervision, and, while it lacks direct power to remove local assessors, it can on its own initiative set aside such assessments as appear unjust and order reassessments by its own appointees.

This State seems to have made a determined effort to equalize taxation by assessing property at full value. During its first investigations the permanent state board reported that certain corporate property was made to bear more than its just share of taxation. This was remedied to a considerable extent.

The gross-receipts method applies to express companies; the general property tax applies to all other corporations, except foreign insurance companies, which are taxed on premiums. Express, car, and foreign insurance companies are the only classes of corporations subject to a tax which is exclusively for state purposes.

The largest items of revenue from state, as distinguished from local, taxation in 1910 were approximately as follows: From general property, $2,000,000; railroads, $471,000; insurance companies, $274,000; certain other corporations, $196,000; and inheritances, $9,000.

Missouri.

State, as distinguished from local, revenue from taxation is a little more than $5,000,000 annually. Of this, corporations

assessed by the State contribute 20 per cent. Taxes paid by other corporations can not be estimated.

The only taxes on corporations levied solely for state purposes are on gross receipts of express companies and property of freight car companies. A portion of the state tax on foreign insurance companies is returned to counties. Merchants and manufacturers are taxed for state and local purposes under what is in form a license tax, but what is in reality a property tax based on the greatest amount of merchandise, machinery, and certain other property on hand during a stated period of each year. This license tax yields approximately $885,000 annually. About $200,000 of this is for state purposes.

A striking characteristic of recent state constitutions, namely, elaborate legislative provisions governing taxation, including specific limitations in tax rates, was embodied in the Missouri constitution adopted as early as 1875.

Shares of stock of foreign corporations have recently been judicially declared exempt from taxation; shares of domestic corporations are in the main exempt by statute. Bonds of both foreign and domestic corporations are taxable.

A feature peculiar to Missouri's assessment system requires judges of county courts to correct assessments of undervalued or omitted railroad property.

The various sources of revenue from state, as distinguished from local, taxation in 1910 were: Certain classes of corporations, $1,000,000, or 20 per cent; general property, about $2,300,000, or 43 per cent; inheritances, $314,000, or 6 per cent; liquor tax, $1,578,000, or 30 per cent; miscellaneous, $31,000, or 1 per cent. Of the $1,031,000 from corporations, railroads paid $272,000, or 26 per cent, and insurance companies $370,000, or 36 per cent.

MINNESOTA.

I. GENERAL VIEW.

Chief Features.

First. Taxation, by the gross-earnings method, of certain public-service corporations solely for state purposes in lieu of other taxes. "The people of Minnesota * * * have come to regard it as the most satisfactory part of their tax system." [1]

Second. Taxation, by the general property tax method, of almost all other corporations, for both state and local purposes.

Taxes for State Purposes Only.

The State receives for state purposes (1) a gross-earnings tax from railroad, freight line, telephone, and express companies; and (2) a property tax (on property used in the business) from telegraph and sleeping car companies, levied at the average rate of taxation for the whole State. In lieu of this, sleeping car companies may elect at any time to pay a gross-earnings tax.

Taxes for Both State and Local Purposes other than General Property Tax.

Taxes falling under this heading are: (1) A tax on the gross earnings of interurban electric lines; (2) a tax on registered net tonnage of vessels, applicable to navigation companies navigating international waters, but these may elect to pay the general property tax; and (3) a tax on grain handled by grain elevators, levied at specific rates per bushel. Other property of grain elevator companies is subject to the general property tax.

General Property Tax for Both State and Local Purposes.

Like the property of individuals, all corporate property, in the absence of specific provision, is assessed locally under the general property tax, for township, county, and state purposes, at the respective rates, and usually upon 25 to 50 per cent of its actual value. The local officers collect the entire tax.

Subject to the general property tax on all property are gas, water, electric light, road, and bridge companies; also manufacturing, mercantile, and miscellaneous corporations.

[1] Report of Minnesota Tax Commission, 1908, p. 81.

Stockholders and Bondholders.

Shares of stock in domestic and foreign corporations are exempt from taxation in the hands of holders when the corporate property is taxed in the State. Otherwise such shares of stock are taxable.

Bonds of domestic and foreign corporations are taxable to holders, unless secured by mortgage on Minnesota real estate.

Foreign Corporations.

Foreign corporations doing business in the State are taxed in practically the same manner as similar domestic corporations.

Administration.

The Tax Commission, composed of three members appointed by the governor for terms of six years each, determines the amount of taxes due from corporations paying on gross earnings. It also values the property of telegraph and sleeping car companies and determines a rate not greater than the average rate of all taxes on all kinds of property throughout the State. This rate is applied to the property of telegraph companies. The rate for sleeping car companies electing to pay the property tax is computed by the state auditor at the average of all rates in the State. All these taxes are collected by the state treasurer. To verify the amounts due from companies paying taxes on the gross-earnings basis, their books are from time to time audited by the state public examiner. The vessel tonnage tax is assessed by the state auditor and is collected by the state treasurer.

All other property is assessed locally under the general property tax. These assessments are reviewed in turn by the municipal and county boards of equalization and by the State Tax Commission. The commission has power, in connection with its duties of equalization, to increase assessments of individuals above the amount returned by county boards, but it can not diminish any such assessment. The general property tax is paid to the county treasurers.[1]

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[1] Sources of revenue in Minnesota:

Municipal and local districts.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses; (*d*) fines, fees, etc.

County.—(*a*) General property tax; (*b*) business taxes and licenses; (*c*) fines, fees, etc.

State.—(*a*) General property tax; (*b*) corporation taxes; (*c*) inheritance tax; (*d*) miscellaneous licenses, fines, fees, royalties, leases, etc.

II. DETAILS AS TO THE CONSTITUTION AND STATUTES.

CONSTITUTION.

The chief constitutional provisions with reference to corporate taxation may be summarized as follows:

Taxation shall be uniform upon the same class of subjects.[1]

The power of taxation shall never be surrendered, suspended, or contracted away.[2]

Any provision for the repeal or amendment of any law which taxes railroads on the gross-earnings basis, in lieu of other taxes on said companies, must be submitted to a vote of the people.[3]

The legislature shall pass no local or special law exempting property from taxation, granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise, or authorizing public taxation for private purposes.[4]

No tax shall be imposed on lands belonging to the United States, and in no case shall nonresident proprietors be taxed higher than resident.[5]

STATUTES.[6]

General Property Tax.

Corporations, domestic and foreign, unless exempt, pay locally the general property tax for state and local purposes on all property.[7] The aggregate market value of shares of stock over the value of tangible corporate property is, in theory, taxable to certain corporations under the general property tax; but in practice this excess is seldom if ever taxed.[8] The law also provides

[1] Constitution, 1858, Art. IX, sec. 1, as amended.

In making a classification [of subjects for taxation purposes] the legislature has a very wide range of discretionary power. The classification must be reasonable, and such as is suggested by essential differences of nature, situation, or circumstances, or by characteristics which make it desirable on grounds of public policy to apply to the members of the class a particular method of taxation, and impracticable to apply thereto the ordinary methods of taxation. Mutual Benefit Life Ins. Co. *v.* County of Martin, 104 Minn., 179, 181 (1908).

[2] Constitution, Art. IX, sec. 1, as amended; amendment held duly adopted at the general election, 1906. McConaughy *v.* Secretary of State, 106 Minn., 392 (1909).

For methods of taxation permitted on a similar provision in the Pennsylvania constitution, see Commonwealth of Pennsylvania *v.* Delaware Division Canal Co., 123 Pa., 594, 2 L. R. A., 798 (1889).

[3] Constitution, Art. IV, sec. 32a, added 1871.

[4] Ibid., Art. IV, sec. 33, added 1881, amended 1892.

[5] Ibid., Art. II, sec. 3.

[6] Except as otherwise indicated, the references under this head are to the 1905 edition, Revised Laws of Minnesota, and to the 1909 Supplement to same.

[7] R. L., secs. 794, 821.

[8] R. L., secs. 821, 838; Report of Minnesota Tax Commission, 1910, p. 6.

that assessment of property in general shall be at full value,[1] but property is usually assessed at from 25 to 50 per cent of its actual value.[2] The principal place of business is made the situs of personal property for taxation purposes.[3]

"Moneys and credits" [4] (except moneys and credits belonging to incorporated banks situated in Minnesota, mortgages upon which the recording tax has been paid, and obligations secured by same) are taxable at the low uniform rate of 3 mills on each dollar of value.

Improvements upon land not subject to the general property tax (by virtue of being owned by railroad or certain other corporations) are, if made by persons or corporations not owning the land, assessed to the owners of the improvements as personalty, and not to the owners of the land as realty.[5]

Railroad, Freight-Line, Telephone, and Express Companies.

Steam railroads are taxed at 4 per cent,[6] telephone companies

[1] R. L., secs. 810, 798, subdiv. 5.

[2] Report of Minnesota Tax Commission, 1910, p. 122.

[3] R. L., secs. 794, 821.

As to taxation at the principal place of business the statute refers only to "capital stock and franchises," but this is deemed to include all forms of personal property. Opinions of Attorney General, 1894, No. 204.

[4] Laws, 1911, chap. 285.

The items taxable as moneys and credits are money on hand or on deposit; promissory notes and bonds; book accounts; annuities, royalties, and sums of money received at stated periods; and all claims and demands for money or other valuable thing not enumerated above.

[5] R. L., sec. 797, subdiv. 3.

[6] R. L., sec. 1003 et seq.; Laws, 1903, chap. 253; Laws, 1911, chap. 389.

The present law, 1903, increasing the rate of taxation on the gross earnings of all railroads, after ratification by vote of the electors required by constitutional provision, was held constitutional. State *v.* Duluth & Northern Minnesota Railway Co., 102 Minn., 26 (1907).

A charter granted by the Territory of Minnesota to a certain railroad company fixed 3 per cent of gross earnings as a tax in lieu of all taxes and assessments whatever. Under foreclosure the property passed to the State of Minnesota and from the State to others who claimed the benefits of the territorial charter. They refused to pay the increased tax on the ground that an irrepealable contract arose from the granting and accepting of the charter by their remote predecessor. The court held that when a State becomes the owner by purchase of the entire property and franchises of a corporation created by itself, it can only convey the same pursuant to the provisions of the then existing constitution, and it can not reinvest either a purchaser or the original owner with any exemption from taxation prohibited by the existing constitution.

There is a difference between a contract for a commuted system of taxation on earnings of a railroad corporation and the specific exemption from taxation of land granted to the corporation for a definite period: the former is personal and not assignable, while the latter is attached to and follows the land. Great Northern Ry. Co. *v.* Minn., 216 U. S., 206 (1910).

The present law was held applicable to another road with a similar history. Chicago Great Western Ry. Co. *v.* Minn., 216 U. S., 234 (1910).

at 3 per cent,[1] express[2] (see below) and freight-line[3] companies at 6 per cent on gross earnings. These taxes are regarded as taxes on property. They are paid to the State for state purposes. They are in lieu of all other taxes, except the general property tax paid locally for state and local purposes on property not used in the business. As to this exception the statutes and decisions are plain in regard to railroad and telephone companies,[4] and with respect to freight-line, telegraph, and express companies it is the opinion of the Tax Commission that if these classes of companies owned property in Minnesota not essential to the conduct of their business such property would be subject to taxation locally under the general property tax.[5]

The term "gross earnings" as applied to railroads,[6] freight

[1] R. L., sec. 1035.

The law taxing the gross earnings of telephone companies is not void as discriminating in favor of such companies and against telegraph companies. State *v.* Western Union Telegraph Co., 111 Minn., 21 (1910).

[2] R. L., secs. 1013, 1015, 1019.

The rate may appear high, nevertheless transportation charges are deducted from gross receipts. For the past six years the percentage of the amount paid for transportation to the total receipts has been between 46 and 47 per cent. See State Auditor's Reports, 1905–6, p. 93; 1907–8, p. 90; 1909–10, p. 93.

[3] R. L. Sup., sec. 1027, subdivs. 1–4; Laws, 1911, chap. 377.

[4] Lands of a railroad company which have never been used or which have ceased to be used for corporate purposes (except land grants), whether idle or rented for other purposes, are taxable. County of Ramsey *v.* C. M. & St. P. Ry., 33 Minn., 537 (1885).

Land purchased by a railroad company, the timber on which was principally used and to be used in constructing and repairing its own road, was held not exempt from taxation. County of Todd *v.* St. Paul, M. & M. Ry. Co., 38 Minn., 163 (1888).

Unreclaimed land covered by water, and which has never been separated by conveyance from shore land, is not subject to taxation independently of the other property. State *v.* St. Paul & Duluth R. R., 81 Minn., 422 (1900).

Office buildings occupied exclusively for telephone purposes were held exempt from general property tax. State *v.* Northwestern Telephone Exchange Co., 84 Minn., 459 (1901).

A lot purchased by a telephone company and used for storing telephone poles and other material used in its business and adjoining a building owned and used exclusively for telephone purposes was held not exempt from the general property tax, as the evidence did not show conclusively that the lot was necessary for the ordinary use and conduct of the company's business. State *v.* Northwestern Telephone Exchange Co., 96 Minn., 389 (1905).

[5] Interview with Minnesota Tax Commissioners, Aug. 18, 1911.

[6] Compensation received by a railroad company from another company for the right to run trains over the lines of the former does not come within the term "gross earnings." No provision is made for the taxation of gross earnings other than those received from the operation of the railroads. State *v.* St. P., M. & M. Ry. Co., 30 Minn., 311 (1883).

Payment of gross-earnings tax by railroad companies which own all the stock of a union depot company and use its property constitutes payment of taxes on the prop-

lines,[1] and telephone companies,[2] includes the proportionate share of interstate gross receipts, from operation, which the mileage within the State bears to the entire mileage over which the business is transacted. The term "gross receipts" is used in the statutes with respect to express companies, but in practice these companies are assessed on gross earnings,[3] but amounts paid by express companies to railroads for transportation charges are deducted from the gross receipts in assessing this tax.[4] Until

erty of the depot company. State *v.* St. Paul Union Depot Co., 42 Minn., 142 (1889).

Gross earnings of railroads include, among other things, amounts received for leasing cars and machinery; and car mileage for the use of freight equipment. They do not include sale of old equipment, amounts received for repairing cars, interest and exchange from moneys in bank or from securities owned by the company, or receipts of rentals of right of way from telephone companies. State *v.* Minn. & International Ry. Co., 106 Minn., 176 (1908).

The legislature of 1911 passed a law providing that the term "gross earnings" shall also include earnings from property other than that used in operation. Laws, 1911, chap. 389. In accordance with a constitutional provision, all laws providing for gross-earnings taxes on railroads must be submitted to the people.

[1] R. L. Sup., sec. 1027, subdiv. 1–4; Laws, 1911, chap. 377.

While the measure of this tax on freight-line companies is gross earnings, it is by statute designated a tax on property.

[2] A proportionate part, based on mileage, of the gross earnings from interstate business should be included. Amounts received as messenger charges for calling persons to telephone stations should also be included. Dividends from securities are not a part of the gross earnings within the meaning of the statute. The gross-earnings tax is a system by which the amount of tax upon the property is determined by a method which has generally been found equitable and satisfactory. It is a tax upon the property and not upon the corporation. State *v.* Northwestern Telephone Exchange Co., 107 Minn., 390 (1909). Applies also to railroad companies.

[3] Interview with Minnesota Tax Commissioners, Aug. 18, 1911.

[4] R. L., secs. 1013, 1015, 1019.

The attorney general of the State rendered an opinion in 1909 (No. 669, Biennial Report of the Attorney General, 1909–10) that the words "the entire receipts * * * for business done *within this State*" in subdivision 6 of section 1013, R. L., 1905, and the words "gross receipts for business done between *points within this State*" in section 1019, R. L., 1905, do not include receipts arising from interstate business. But in State *v.* U. S. Express Co., 131 N. W., 489 (in 1911), the supreme court of the State decided that earnings on interstate shipments transferred to or received from other companies in the State should be included. The court said, in substance, that the tax not being upon the gross earnings, but the gross earnings being used merely as a measure to arrive at the value of the company's property for taxation, there is no interference with interstate commerce.

This case also held that the gross earnings should include earnings from the issuance of money orders sold in the State and designating no place of payment but being payable at any office of the company within or without the State; and that earnings on shipments between points in the State but passing out of the State and into it again, en route, should be included so far as the proportionate part of each shipment within the State is concerned. This case is now on appeal in the United States Supreme Court.

recently the term "gross receipts" as applied to express companies was regarded as confined to intrastate gross receipts, but a decision of the state supreme court, if sustained by the United States Supreme Court, will cause certain interstate gross receipts to be included.

The State Tax Commission determines the amount of the gross earnings and assesses the taxes due thereon.[1] This assessment is based on an annual report from each company of the above-named classes. A duplicate of each such report is also furnished to the state public examiner, who from time to time verifies such statements by an examination of the books of companies subject to the gross-earnings tax.[2]

Telegraph Companies.

Domestic and foreign telegraph companies pay to the State, for state purposes, a tax upon their tangible and intangible property within the State.

This tax is in lieu of other taxes [3] and is levied at a rate "which shall not exceed the average rate of taxes." In practice the Tax Commission places this rate at a figure slightly below the average rate of taxation.[4]

These companies are required to file annually with the state auditor information as to the number of poles, wires, instruments, and other property used in operation. With this statement as a basis, the State Tax Commission determines, equalizes, and assesses the value of telegraph property, including franchise. The statutes do not provide a specific method for determining the value of property and franchise.[5]

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[1] Laws, 1909, chap. 504.

[2] Laws, 1909, chaps. 449, 504.

[3] Presumably in lieu of other taxes *on property used in the business*, as property not used in the business probably would, if there were any, be subject to the general property tax for both state and local purposes. See closing sentence, first paragraph, heading "Railroad, etc., companies," supra.

[4] R. L., secs. 1032, 1033.

We conclude that the language of this statute, properly construed, provides for the taxation of tangible and intangible property of the telegraph company, situated within this State, as a system, and not merely for the taxation of segregated items of tangible property, and is constitutional. State *v.* W. U. Tel. Co., 96 Minn., 13, 19, 25 (1905).

The term "average rate of taxation" means the average rate of all taxes, state, county, and local combined, as determined by the Tax Commission.

The law for taxation of telegraph companies provides for the collection of taxes by judicial action, and is not void. It affords the equal protection of the laws, and constitutes due process of law. State *v.* W. U. Tel. Co., 111 Minn., 21 (1910).

[5] The exact method used by the commission could not be ascertained.

Sleeping Car Companies.[1]

Sleeping car companies, domestic and foreign, pay to the State for state purposes either a tax on property or a tax on gross earnings.[2]

All such companies up to January, 1912, elected to pay a tax on property. The property tax is levied, at the average rate of taxation on general property for the whole State, on all property used in the sleeping car business, namely, upon that proportion of the total value of cars used in the State which the car mileage within the State bears to the total mileage covered by said cars. The average rate is determined by the state auditor. The valuation of cars is based upon annual reports made by car companies to the Tax Commission. The Tax Commission certifies the assessment to the state auditor for levy and collection of the tax.

At any time these companies so elect they may pay, in lieu of other taxes, a tax of 4 per cent on gross earnings from all intrastate business, including a mileage proportion of earnings from interstate business. Companies electing to pay this tax would be required to make annual reports to the Tax Commission, which body, with the aid of the state public examiner, would determine the amount of gross earnings and the taxes due thereon. Certification would then be made to the state auditor for levy and collection.

Navigation Companies.

Domestic and foreign navigation companies engaged in the navigation of international waters may elect to pay either a tax based on net tonnage of vessels or the general property tax. Other navigation companies have no election, but their vessels are taxed at their home port as personal property.[3] All vessels on the Great Lakes pay the tonnage tax.

The tonnage tax—3 cents per net registered ton of vessels owned within or hailing from a port of the State—is paid to the State. Half of the tax collected is retained by the State and half is remitted to the counties wherein ports of hail are located.[4]

The general property tax is paid locally for state and local purposes.

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[1] The term "sleeping car companies" includes all persons, corporations, joint stock companies, and associations (except railroads) operating sleeping cars and all other cars upon which a fare, in addition to railroad fare, is charged. R. L., sec. 1028. In practice dining cars are included.

[2] R. L. Sup., sec. 1030, subdivs. 1–6; Laws, 1907, chap. 453.

[3] R. L., sec. 827.

[4] Ibid., sec. 1038.

Interurban Electric Lines.

These companies, foreign and domestic, pay to the State for state and local purposes a tax of 4 per cent on gross earnings. The part of the tax assigned to each taxing district is in proportion to the gross earnings received from each. The amount of this tax retained by the State is that proportion which the state rate on general property bears to the total general property rate in each local taxing district through which the routes pass. This proportion is determined, separately for each city, town, and other local taxing district, and the sum of the various items is the State's share of the tax. After deduction of the State's share, the remainder is apportioned by the Tax Commission to the local taxing districts through which the routes pass.[1]

Each interurban electric line is required to report annually, among other items, the amount of its gross earnings.

Public Utility Companies.

Street railway, gas, electric light, water, road, and bridge companies, whether domestic or foreign, pay the general property tax locally for state and local purposes on all property. In theory these companies are subject to local assessment on the excess of the aggregate market value of shares of stock over tangible corporate property.[2]

"The plain purpose of this law was to reach the so-called 'corporate excess' of corporations and the 'good will' value of individual and partnership enterprises, but it is equally plain that it is utterly inadequate to produce the desired result. The law as it stands applies alike to corporations and individuals, and for that reason has been ever since its enactment practically a dead letter."[3]

Gas, electric, and water mains, pipes, conduits, subways, poles, and wires located in any road, street, or alley are assessed as personal property and (as to gas and water companies) in the district "where the principal works are located."[4] Tracks, roads, and bridges of street railway, plank-road, gravel-road, turnpike, and bridge companies, together with the poles and wires of such companies erected or laid in connection therewith, are assessed as personal property "where the principal place of business is located."[5]

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[1] R. L. Sup., sec. 1003, subdivs. 1–6; Laws, 1903, chap. 253.

The proportionate part of such lines assignable as a local street railway should be taxed as a street railway; and the balance taxed under gross-earnings tax. State *v.* Minneapolis & St. Paul Suburban Ry. Co., 130 N. W., 71 (1911).

[2] R. L., sec. 838.

[3] Report of Minnesota Tax Commission, 1910, p. 6.

[4] R. L., secs. 797, 828.

[5] R. L., secs. 797, 829.

Manufacturing, Mercantile, and Mining Companies.

Domestic and foreign corporations of these classes pay the general property tax locally for state and local purposes. Manufacturing, mercantile, and mining companies are in theory subject to the same tax on excess as that applicable to public utility companies, but in many cases there is no excess; and where there is, little attempt has been made to list it. In practice it is not taxed.[1]

The personal property pertaining to the business is listed in the town or district where the business is carried on. Logs and timber, cut in Minnesota and intended for shipment out of the State, are taxed where found on assessment day.[2] The operators of grain elevators are assessed locally for state and local purposes at a rate of one-fourth of 1 mill per bushel on wheat and flax, and one-eighth of 1 mill per bushel on other grain handled during the preceding year. This grain tax is paid to county treasurers and is in lieu of all other taxes on such grain. The tax is distributed in the same manner as taxes collected on other personal property.[3] Real estate and personal property (excepting grain) of grain-elevator companies are taxed under the provisions of the general property tax.

Active mines, reserves, and prospects are assessed by the State Tax Commission with the assistance of the School of Mines of the State University on the basis of applying the property tax to the value of the ore in the ground.[4]

Stockholders and Bondholders.

Shares of stock in domestic and foreign corporations whose property is taxed in Minnesota are not taxed in the hands of holders.[5] Shares of stock in other corporations and bonds of foreign and domestic corporations (except bonds secured by mortgages on Minnesota real estate, upon which the recording tax has

[1] See "Corporate excess," etc., under "Comments."

[2] R. L. Sup., sec. 822.

[3] R. L. Sup., sec. 1038, subdivs. 34–37.

[4] See "Assessment of iron ore properties," under "Comments," p. 45.

[5] R. L., sec. 816.

The owners of shares in domestic corporations, as well as those holding shares of foreign corporations certified to do business in Minnesota, are not required to list such shares. This principle has not been extended to bondholders. Under sec. 816, Revised Laws, 1905, bonds are assessed to owners exactly as other personal property. Report of Minnesota Tax Commission, 1908, pp. 100, 101.

been paid [1]) are taxed to holders. Such bonds are taxable at the rate of 3 mills on each dollar. The Tax Commission holds that stock is not a credit and that such stock as is taxable does not come within the new law [2] taxing money and credits at the low uniform rate.

Foreign Corporations.

Foreign corporations of the various classes herein considered are taxed in practically the same manner as similar domestic corporations, namely, on tangible property and on such credits as obtain a situs in this jurisdiction.

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 66 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED JULY 30, 1910.[3]

Total state receipts, all sources		$14,810,944.43
State taxes from corporations:		
Railroad companies [4]	$4,458,911.59	
Insurance companies	446,898.62	
Telephone companies	163,258.64	
Telegraph companies	21,916.10	
Express companies	37,011.82	
Freight-line companies	4,753.13	
Sleeping car companies	7,361.74	
Vessel tonnage [5] (less $8,626.07, portion distributed to county)	13,187.96	
Banks and banking institutions, fees	23,132.50	
Incorporation fees [6]	98,315.00	
Dining-car liquor licenses	4,800.00	
Oil companies, fees	50,667.67	
Mortgage registration taxes [7]	43,199.00	
Total state taxes from corporations		5,373,413.77

[1] The recording fee on mortgages, payable only at the time of recording the instrument, is 50 cents for each $100 or major fraction thereof, of the principal debt or obligation. Laws, 1907, chap. 328.

[2] Laws, 1911, chap. 285.

[3] Biennial Report of State Auditor, 1909–10, p. 73 et seq.; State Treasurer's Report, 1910.

[4] Assessments for 1909 taxes were $3,640,568.93; collections for 1909 taxes, $3,640,159.86; balance delinquent taxes and court costs.

[5] More than 99 per cent came from corporations.

[6] Collected when new corporation is chartered.

[7] The collections by the State on mortgages of (corporation) property not subject to the general property tax.

Other taxes:		
Inheritance tax	$508,881.91	
Liquor licenses	53,753.69	
Motor-vehicle licenses	22,241.50	
Hunters' licenses	16,667.90	
General property tax (less $1,093,192.99 [1] distributed to counties)	2,160,636.30	
Total state taxes not from corporations		$2,762,181.30
Total taxes for state purposes, all sources		8,135,595.07
Receipts from sources other than taxes:		
Departmental earnings, fees, and fines	163,036.36	
Drainage bonds sold	313,353.83	
Interest paid on daily bank balances	54,274.75	
Sale of binder twine, state prison	1,231,409.17	
Reassessment expenses	1,367.68	
State institution receipts and earnings [2]	642,536.98	
Grain and hay inspection fees	313,555.24	
Sale of prison certificates of indebtedness	425,000.00	
Sales of timber on state lands	319,224.88	
Mineral permits and contracts	23,200.00	
Royalty on iron ore	303,952.42	
Sale of grass on state land	843.93	
Principal paid on state-land contracts	267,962.39	
Interest paid on state-land contracts	312,211.61	
Principal paid on loans to local municipalities	374,842.30	
Interest paid on loans to local municipalities	296,076.25	
Interest paid on trust-fund bonds	275,493.33	
Miscellaneous	255,189.18	
Total receipts from sources other than taxes		5,573,530.30
Less school apportionment		801,286.11
Total receipts for state purposes from sources other than taxes		4,772,244.19
Total state taxes and receipts for state purposes		12,907,839.26
Total receipts distributed to counties		1,903,105.17
Total state receipts, all sources		14,810,944.43

IV. COMMENTS.

Historical.

The principle of the well-known uniformity clause of the Ohio constitution of 1851,[3] which at various times has served as a model for other states, including North Dakota, Arkansas, and North

[1] Part of this comes from local taxation of corporations, but it is impossible practically to ascertain the amount thus received.

[2] Includes $52,500 aid to universities from United States Government.

[3] Laws shall be passed taxing, by a uniform rule, all moneys, credits, investments in bonds, stock, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money. International Tax Conference, 1908, pp. 561–570.

Carolina, was inserted in the Minnesota constitution of 1858,[1] and for the first 13 years of statehood, this required a strictly uniform valuation of all property throughout the State. Certain railroads however, were, by reason of special charters, exempt from this uniformity clause. The constitutional provision of 1871 required that any change in the law taxing gross receipts of railroads should be ratified by vote of the people. An amendment in 1896 authorized the taxation of certain public-service corporations under the gross-earnings system. In 1906 the original uniformity clause and the amendment of 1896 were repealed and the constitution was broadened by the adoption of the following clause: "Taxes shall be uniform upon the same class of subjects." This permits classifications suggested by essential differences in property, which differences make the application of ordinary methods of taxation improper, and make classification desirable on the ground of public policy.

The following brief outline of the history of corporate taxation in Minnesota is taken from the 1908 report of the Tax Commission, pages 10 and 11:

"Departure from the general property tax as the sole system of taxation was begun as early as 1857, when the legislature granted charters to railroad companies providing for the payment of taxes on a gross-earnings basis. Twice in the history of the State the rate of taxation on railroad earnings has been changed, but the principle involved has been extended with various modifications to other types of corporate organizations. In 1873, the legislature declared that any railroad company might by resolution of its board of directors commute its taxes under the ad valorem rule by a payment of a percentage of its gross earnings. Fourteen years later the legislature made the act mandatory, requiring railway companies to pay a percentage of their gross earnings in lieu of all other taxes. The rate was raised from 3 to 4 per cent in 1903.

"The principle of taxation thus developed in the taxation of railroads was extended to the taxation of telephone, express, freight line, and insurance companies. In point of time a tax on gross premiums of insurance companies, imposed in 1872, was the first extension of the principle. It was followed by the 2 per cent tax on the gross receipts of telephone and telegraph companies in 1887, which was abandoned in 1891 and return made to the ad valorem method of taxation. The telegraph companies continued to be taxed on the basis of the general property tax. The gross-earnings tax, however, was made to apply again to telephone companies in

[1] Constitution, Art. IX, secs. 1, 3, as contained in Statutes of Minnesota, Revision, 1866.

1897. In 1895 the legislature commuted all taxes against vessel property by laying a tax of 3 cents per ton net register.

"Two years later telephone, express, and sleeping car companies were placed on the list of corporations paying taxes on a gross-earnings basis. The rate of tax differed in each instance. Six years later, in 1903, the freight-line companies of the State were subjected to a gross-earnings tax. The sleeping car companies, though offered the option of such a method of taxation, retained the old ad valorem method of assessment in place of a gross-earnings tax of 4 per cent, while the telegraph lines were taxed on an assessment made by the State Board of Equalization. Prior to 1896 and from 1878 the companies and individuals engaged in mining were allowed to commute all taxes on their mineral property by a tonnage tax of 1 cent on every ton of ore mined by them. This act was declared unconstitutional by the attorney general, in an opinion of May 19, 1896, and in the following year the act was repealed."

Railroad Land Grants.[1]

The United States, for the benefit of certain railroad companies, granted to the State by various acts of Congress a total of 8,029,000 acres;[2] and the Federal Government has given direct to the Northern Pacific Railroad, for the same purpose, public lands in the State amounting to 2,188,460 acres.[3] In addition, the State has given 2,852,077 acres of its swamp and overflow lands to railroad companies.[4] The total land surface in the State is 51,749,120 acres.[5] The exempt area, therefore, is of importance.

The State in granting these lands provided that the payment annually by the railroad company of a certain percentage of its gross earnings should be in lieu of all taxation upon the property of the company including the lands so granted.[6] Notwithstanding this provision the legislature of 1895 passed a law, which was adopted by the people,[7] requiring that all lands granted by the State, or the United States, or the Territory of Minnesota, to any railroad company, except such as were used in the actual operation of the road, should be assessed and taxed as other lands in the State. The

[1] This subject is discussed because these lands are exempt from taxation in Minnesota, while in most other States they are not exempt.

[2] Annual Report of Commissioner of General Land Office, 1911, p. 54. The state auditor's figures are 8,313,880. See Auditor's Report, 1909–10, p. 21.

[3] Letter of Commissioner of General Land Office, Oct. 29, 1912.

[4] Address by State Auditor S. G. Iverson, in Publication of Minnesota Historical Society, 1911.

[5] U. S. Census Bulletin, Agriculture, 1910.

[6] See Special Laws, Minn., 1865, chap. 2, p. 19; State *v.* Luther, 56 Minn., 156 (1894).

[7] Laws, 1895, chap. 168.

Supreme Court of the United States held that this law, so far as the lands of certain roads were concerned, was unconstitutional as impairing the obligation of contracts.[1]

The law now in force provides that lands acquired by public grant shall be and remain exempt from taxation until sold or contracted to be sold, etc.[2]

Gross-Earnings System—Advantages Claimed—Extension of System Recommended.

With respect to the operation of the gross-earnings system in Minnesota, the Tax Commission makes the following statement:

"The gross-earnings tax is based on the supposition that taxes vary as the ability of the company to pay them, while the tax on property is based on the idea that a relation exists between the amount of property owned and the income received. There is, however, no necessary relation between property and income, for both are continually changing and shifting, regardless of each other. The people of Minnesota, because of the ease with which the gross-earnings tax is collected and administered, have come to regard it as the most satisfactory part of their tax system. It is the same in the matter of rate from year to year; it varies with the capacity of the companies to pay and can not be shifted easily from company to consumer. These are arguments, but briefly stated here, on which the tax stands as a part of the Minnesota fiscal system."[3]

In the opinion of the commission, the greatest advantage of the gross-earnings system is that it entirely eliminates the necessity of the valuation of the complicated and peculiar properties of the corporation.[4]

The commission recommends the withdrawal of the option given to sleeping car companies and the placing of this class and of telegraph companies under gross-earnings tax provisions.[5]

The following advantages with respect to the extension of the gross-earnings principle to street railway, electric light, gas, power, and water plants, the localities to share in the amounts received, are presented by the commission:[6]

"The intricate plants and extended values of the same make it difficult to value them accurately even for taxation purposes. The assessment when made becomes fixed and prevents the community from sharing in the increased earnings of the company.

[1] Stearns *v.* Minnesota, 179 U. S., 223 (1900).
[2] Laws, 1903, chap. 253.
[3] Report of Minnesota Tax Commission, 1908, p. 81.
[4] Ibid., 1910, p. 202.
[5] Ibid., 1910, pp. 199, 201.
[6] Ibid., 1908, p. 94.

Under a gross-earnings tax the company knows what to plan upon, is no longer forced to interfere with assessors in order to get what it conceives to be justice, and consequently keeps out of the political field, with a resultant betterment of political conditions all around. There is a gain to the community in ease of collection and administration, and one to the company in knowing what to expect."

The commission states that the amount actually received by the State under the 4 per cent tax on gross earnings of railroads for the year 1907 was a little more than $3,500,000, or about $740,000 less than it would have received under an ad valorem tax based on the State's reproduction value, and $1,785,000 less than it would have received from an ad valorem tax based on the railroads' own reproduction valuation. In 1909, however, the gross-earnings taxes on railroads increased to $3,640,000, and in 1910 to $3,894,000.[1]

The estimated ad valorem tax in each case was based on 43.48 per cent of the true value of the real estate and 28 per cent of the personal property. To this was applied the average of tax rates, namely, 25.91 mills.

According to the railroads, the reproduction valuation of these properties was $495,000,000; and according to the State, it was $407,000,000, or $88,000,000 less. The State valuation was not made by the Tax Commission for taxation purposes, but was made by the Railroad and Warehouse Commission as a basis for determining rates of transportation.[2]

Corporate Excess Tax Ineffectual, Repeal Recommended.

The tax law of 1878 [3] provided that corporations in general, except railroad, insurance, telegraph, and banking corporations, should be assessed for taxation as follows: Real and personal property should be assessed the same as the property of individuals, and in addition there should be assessed a valuation made up of the difference between the market or actual value of the shares of stock, and the total of the three values of their real property, personal property, and all indebtedness, excluding indebtedness for current expenses, but including the amount paid for purchase or improvement of property.

[1] Report of State Auditor, 1909–10, p. 79. The 1910 figures were furnished by Auditor S. G. Iverson after the publication of the report mentioned.

[2] Report of Minnesota Tax Commission, 1910, pp. 8, 9.

[3] Laws, 1878, chap. 1.

This method came before the supreme court of the State in 1899. The assessor, in valuing the personal property by items, placed a separate value on franchise. The court held that the assessment should be on tangible property only, franchises and other intangible property to be reached through assessment of the capital stock at actual or market value less the value of tangible real and personal property otherwise listed and assessed, but without deduction of indebtedness.[1]

The present law,[2] though framed in accordance with this decision, is ineffectual, and business corporations are still taxed like individuals. The Tax Commission states that but little effort is made by the corporations to furnish complete returns. Again, in many cases there would, in any event, be no "corporate excess," such as is known in Massachusetts, over and above the value of the tangible property of the corporation; or the stock is not upon the market and its actual value is a matter of conjecture. The commission is of the opinion that it is the good will which the statute seeks to value; that the wisdom of taxing this good will is questionable owing to its illusory value, and owing to the fact that individuals are not so taxed; that, judging from similar statutes in other States, the law was originally designed to apply only to public-service and other large corporations whose stock is listed in the exchanges; that it should be repealed; and that the gross-earnings system might be applied to the taxation of ordinary business corporations.

The following, taken from the commission's reports, presents more in detail than the foregoing paragraph its statements concerning the failure of the attempt to tax corporate excess:

"What is known under the Massachusetts law as the 'corporate excess' would seldom exist under the returns required by the Minnesota law. Very few corporations make any returns as required by section 838, * * * and the law as it now stands is practically obsolete.[3]

"It will be seen from * * * what has already been said that the corporate excess can not be, even in the case of local public-utility companies, any considerable sum, since the bonded debt is ignored as a part of the investment in the corporation. The supposition under the Minnesota law is that the shareholders shall be taxed through the medium of the corporation, but the bond-

[1] State *v.* Duluth Gas and Water Co., 76 Minn., 96; 57 L. R. A., 63 (1899).

[2] R. L., sec. 838.

[3] Report of Minnesota Tax Commission, 1908, p. 99.

holders are to be trusted to list their property as individuals. * * * The failure in the Minnesota method is due to the attempt to have franchises valued by the local assessors who have no means of doing it satisfactorily.[1]

"As a matter of State-wide practice and common knowledge * * * this method of assessing corporations is obsolete in this State. * * * Business corporations are still taxed in the same manner as individuals, upon their real and personal property and upon nothing else. The excess value of the capital stock, just as in the case of commercial banks, is left untaxed. * * * It is a dead letter in practice."[2]

The commission recognizes that there is frequently a value over and above the normal or book value of the capital stock, the good will. It is not a franchise value, for that is "worth just what it costs" to incorporate. It is this good will which the statute seeks to value. The commission questions whether it is wise to tax this item owing to its "illusory value." The corporation is discriminated against as respects the individual engaged in the same lines of business, no attempt being made to value and tax his good will.

The commission believes that the difficulties in determining the values of the intangible property and corporate stock furnish a sufficient reason for the adoption of the gross-earnings system to the taxation of ordinary business corporations. It holds that it would be especially desirable in the case of real estate, commission, brokerage, and similar corporations who have little tangible property and distribute their profits before the assessment day arrives.[3]

System of Taxing Business, Manufacturing, and Mercantile Corporations Proposed in 1908.

In 1908 the commission outlined a system of corporate taxation possible of development, not recommended, but presented for the consideration of the people of the State, as follows:[4]

Business and manufacturing corporations.—(1) Tax on real estate by local authorities, (2) personal property to be exempt from taxation, (3) tax on stocks and bonds, after deducting the amount of the real estate, at the rate, for example, of 3 mills, or $3 per $1,000 of value, this tax to be administered by the state authorities and paid by the corporation, for the owners, to the State.

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[1] Report of Minnesota Tax Commission, 1908, p. 104.
[2] Ibid., 1910, pp. 206, 207.
[3] Ibid., 1910, pp. 212, 213.
[4] Ibid., 1908, pp. 108, 109.

Mercantile corporations.—(1) Tax on real estate owned or leased by the companies, (2) personal property to be exempt, (3) tax on gross volume of business at a rate possibly not less than 4 mills for retailers and 2½ mills for wholesale dealers.

In the same year (1908) the secretary of state recommended that all corporations, domestic and foreign, be required to file annual reports in his office, and that a fee of from $5 to $10 be charged therefor.[1] A similar recommendation had been made by the State Board of Equalization in 1906,[2] which was concurred in by the governor.[3]

The Problem of Assessments.

Since its creation the Tax Commission has endeavored to improve local assessments. Assessors are urged to use their own best judgment in fixing the value of taxables, instead of leaving it to the owner, and to place *all* property on the tax lists. The work of the town boards, the commission states, has been for years, in practice, merely the hearing of complaints. The importance of carefully examining each individual assessment and of making such changes as will produce equality has been impressed on these boards. The county boards have been cautioned against the practice of assessing property at a percentage of full value, a practice causing inequalities between individual assessments and between assessment districts. They are asked to scrutinize the returns and report to the commission any material omissions from the rolls, when a reassessment for the district will be ordered. Years ago the charge was publicly made that the local assessors in the mining counties were controlled by the mine owners, and that they systematically undervalued these properties. Thereupon [4] the state board was authorized to raise individual assessments upon notice, instead of being limited to a horizontal increase in assessment districts; and its successor, the Tax Commission, now possesses this general authority, although the commission says it has not undertaken to change individual assessments, except in the mining districts.[5]

Wisconsin "Sales Method."

As a guide for its own action and to assist the local officials in the 1910 biennial assessment of real property, the commission followed a plan, used with success for many years in Wisconsin,

[1] Report of Secretary of State, 1907–8, pp. 3, 4; ibid., 1909–10, p. 3.
[2] Report of State Auditor, 1905–6, p. 572.
[3] Inaugural message of Gov. Johnson, 1907.
[4] Laws, 1897, chap. 134.
[5] Report of Minnesota Tax Commission, 1910, p. 40.

known as the "sales method." Registers of deeds and county auditors of each county were instructed to prepare a card record showing all sales of real property by warranty deed for the years 1908 and 1909, the consideration named, and the assessed value of such property in 1908. The commission's field men then investigated the reported consideration of these transfers and rejected those they considered as not representing true amounts.[1] Results of these investigations were sent to the appropriate assessing officials, and "an examination of the abstracts of assessment would indicate that in some counties at least the information furnished by the commission was used to advantage."[2]

Equalization at 50 per cent of True Value Recommended.

In equalizing the personal-property assessment of 1910, the commission was guided principally by the "average value" test—that is, all of the property in a given class—though every available test was used to some extent.[3]

While the statute requires the assessment of all property at its true and full value, it is well recognized that property is and has been assessed at but from 25 to 50 per cent of its actual value. In view of this condition the Tax Commission recommended to the 1909 legislature that the true and full value should be entered on the assessment rolls and that the assessment should be made at 50 per cent of such value. Such a measure failed of enactment, but the legislature passed a resolution requesting the commission not to disturb this ratio which had existed so long, and to allow the relative values to continue until the next session of the legislature.[4]

First among the recommendations of the Tax Commission to the 1911 legislature was the proposal of a change in the basis of assessment from "true and full value" to "50 per cent of true and full value."[5]

[1] Report of Minnesota Tax Commission, 1910, pp. 31–33.

[2] Ibid., p. 45.

[3] Table showing a comparison of the total assessments as returned by the assessors and afterwards equalized by the State Board of Equalization in 1908 and by the Tax Commission in 1909 and 1910:

Years.	Realty.		Personalty.		All property.	
	Returned by assessors.	After equalization.	Returned by assessors.	After equalization.	Returned by assessors.	After equalization.
1908.....	$882,130,972	$898,597,981	$184,958,448	$193,043,319	$1,067,089,420	$1,091,641,300
1909.....	.....	.....	190,209,820	203,428,334	.....	.....
1910.....	955,448,431	1,012,449,518	200,320,469	209,980,859	1,155,768,900	1,222,430,377

[4] Report of Minnesota Tax Commission, 1910, pp. 122–124.

[5] Ibid., p. 305.

Partial Separation of Sources of State and Local Revenue.

(*a*) PARTIAL SEPARATION THE RESULT OF CENTRALIZATION.—Partial separation of state and local revenues has taken place in Minnesota by reason of the special taxes on railroad, telephone, express, freight-line, and insurance companies, and the taxes upon inheritances and mortgages; but this separation was a result of the effort made to secure centralization of assessment and administration. Revenue from the sources mentioned and from miscellaneous sources being insufficient for the State's requirements, the balance is supplied by a levy on general property. For local purposes dependence is almost entirely upon the general property tax.[1]

(*b*) REASONS FOR AND AGAINST COMPLETE SEPARATION.—The commission dwelt at some length upon reasons frequently advanced for and against the separation of sources of state and local revenue, quoting Prof. Seligman [2] to the effect that separation results in (1) conformity of tax system to natural division of government, (2) greater equality of assessment, (3) lower tax rates, (4) the elimination of conflicts between city and country, and (5) a greater flexibility of taxes and larger adaptability of means to end. The commission adds that separation would eliminate efforts now made to keep assessments lower, since the question would then become a local one. Each community could work out for itself the adjustment between assessment, taxes, and expenditures, which seemed wise to the people of the district.

As opposed to such reasons, however, the commission took the position that the States have drifted into separation by increasing the taxes upon inheritances, franchises, and public-utility companies until the revenues secured from state taxation have been more than enough to meet the expenses of conducting state government, so that the problem is how to restore elasticity of revenue; that no greater sum should be raised by taxation than is necessary to meet the expenses of government; that the people lose interest in state expenditures when the funds are provided by indirect taxation; and that the problem of equalization, said to be ever present where there is not separation, is to be met by centralization of assessment, now made possible by the creation of permanent tax commissions.[3]

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[1] Report of Minnesota Tax Commission, 1908, pp. 204–211.

[2] Proceedings of First National Tax Conference, 1907, p. 491.

[3] Report of Minnesota Tax Commission, 1908, pp. 204–211.

(*c*) PLAN PROPOSED FOR WIDER SEPARATION.—In 1908 the Tax Commission was not in favor of separation "to the degree called for by advocates of the idea," and with the attendant sacrifice of elasticity of revenue, but thought further incidental separation should be secured without giving over the right to lay a direct tax. The commission suggested that wider separation might be accomplished by increasing the rate of gross-earnings tax for railroads to 5 per cent, imposing a tonnage tax on the output of iron-ore properties, amending the inheritance-tax law so as to produce more revenue, amending the personal-property tax provisions in order to secure better administration and to encourage proper returns, etc., which would leave $400,000 to be raised for state purposes from the general property tax, a sufficient amount, in the commission's opinion, to give the elasticity of income believed to be necessary. The approximate amount of general property tax raised by the State was $3,500,000, none of which, except the $400,000, would be needed under the new plan.[1]

(*d*) CENTRALIZATION URGED AS CHIEF OBJECT.—The commission concluded as follows:

"So many 'ifs' are contained in the addition of this revenue to the State's income that it may be taken for granted that separation of state and local revenues is not a possibility for Minnesota for some time to come unless reached by the plan of apportioning state expenditures on the basis of local expenditures. This is not likely to commend itself to the people of Minnesota, where the movement for the betterment of the tax system has gone forward in another direction. The most hope for better administration seems clearly to point to centralization of assessment and administration of tax laws that shall be modified and amended from time to time to meet new conditions and satisfy the demands of a progressive State."[2]

Assessment of Iron-Ore Properties.

Minnesota has for years been the leading State in the production of iron ore. In 1910 the mining properties of the State paid more than 18 per cent of the State's tax on general property. Almost the whole of this came from St. Louis County.

Mining property was at first taxed under the general property tax. From 1881 to 1897 a tonnage tax of 1 cent per ton was imposed for state and local purposes on all iron ore mined and

[1] Report of Minnesota Tax Commission, 1908, pp. 204–211.
[2] Ibid., pp. 210, 211.

shipped. In 1897 there was a return to the ad valorem method. Prior to 1907, however, assessment was by local authorities and there was no definite method of ascertaining the quality, quantity, or value of iron ore in any given description of land within the State.

The attempts of local assessors to value iron-ore properties resulted in complaints of inequalities among mine owners and in the creation of something like a de facto board of equalization, which determined the value of the different operating mines according to output. This system, while unsatisfactory from the point of view of equalization of values, was accepted by the mining men as more satisfactory than the valuation made under the assessment machinery of local governments. Every two years the mining representatives met at Duluth and distributed the real property assessments over the operating mines according to their output. The small mines were the losers and the large and more valuable mines the gainers by this method of valuation.

When the Tax Commission was created, in 1907, it undertook to value the iron-ore properties of the State. Two important questions required early consideration—one, how to ascertain the value of such properties; and the other, what basis of valuation would be accepted as a means of getting at the value. Upon the method of procedure, two limitations were placed—one, of the constitution and the law, in which the principles of the general property tax had been laid down; and the other, the nature and character of the industry itself.

The following description of the method adopted by the commission in assessing the ore properties is taken from Rukard Hurd's Iron Ore Manual, edition of 1911, pages 20–24:

"The Tax Commission decided to avoid arbitrary methods and to obtain, if possible, the necessary information on which to base an intelligent, just, and equitable assessment of the mineral properties.

"By circular letter the commission requested all owners and operators of iron-ore properties to furnish full information concerning their holdings—tonnages with average analyses, character and structure of the ore, date and term of mining leases and amount of royalty, mining and other cost, average price of their ore for a term of years at lower lake ports, etc.

"The commission, with its secretary and the state inspector of mines, then proceeded upon a thorough investigation and inspection of the underground and open-pit mines, of prospects and of mineral lands on the ranges. It became apparent that many

mines were operating under the most favorable conditions and shipping high-grade ore at low cost, while many other mines had a higher cost and lower grade of ore, and many others were mining under adverse conditions, with excessive rock, water, quicksand, and a low grade of ore. Many mines had ore beginning at the surface, others would have 50 to 100 feet of overburden containing many millions of cubic yards that must be removed at great cost prior to open-pit mining, while others, on account of overburden, could be operated only as underground mines.

"The commission grasped the situation and evolved the unprecedented plan of placing an ad valorem value on and taxing iron ore in the ground and by the ton.

"Taking the Hull-Rust and the Mahoning mines as models, or standards, for the highest type of mining of high-grade ore under the most favorable conditions and at the minimum cost, by a process of comparison, elimination, and adjustment, there were created six groups or classes of active shipping mines, with differentials to cover the varying adverse conditions of each class. The reserves, part of active mines, or independent tonnages, were placed in three groups or classes, according to their availability as future active mines.

"The prospects were assessed as near as their value could be approximated according to their surrounding conditions and speculative value, on account of proximity to or possibly being part of known ore bodies, until development should make a reclassification necessary.

"The mineral lands within the known ore belt were similarly treated, their values being gradually increased as they approached to what seemed good prospects.

"Within 90 days after receipt of the Tax Commission's circular letter mining companies and mineral owners generally complied with the request, furnishing data as to mining cost, analyses, prices, etc., and complete inventories of 258 mines and reserves containing a total of 1,192,509,757 tons of merchantable iron ore.

"The next step was the classification of this great tonnage into the six groups of active mines and the three groups of reserves.

"Then there was considered the average price of iron ore for a term of years at lower lake ports, and the costs of production and delivery, the difference being the full value in Minnesota of ore ready for shipment. Then followed considerations of the term of the lease, the average life of the mine, and the present or discounted value of all the ore in the mine or reserve on a 4 per cent annuity basis. Then came an investigation through every known source—sales of reality, United States Census, state auditor and State Board of Equalization reports, etc., of the average per cent prevailing throughout the State of true to assessed value on all realty, and the application of that ratio to this mineral realty.

"Proceeding in the above-outlined manner, the Tax Commission defined its classification and based the taxable value per ton of ore in the ground as follows:

CLASSIFICATION FOR 1907.

Active Mines.

	Cents.
Class 1. Inexpensive mining and high-grade ore	33
Class 2. Comparatively inexpensive mining and lower-grade ore	30
Class 3. Higher mining cost and mixed-grade ore	27
Class 4. Underground, low-mining cost and high-grade ore	23
Class 5. Underground, higher mining cost and medium-grade ore	19
Class 6. Underground, high-mining cost, excess rock and water	14

Reserves.

Class 1. Partially developed and stripped, about ready for shipping	15
Class 2. Not stripped and not fully developed	10
Class 3. Not stripped and only partially developed	8

"Prospects, unexplored but located near to developed tonnages, to be assessed at from $2,000 to $20,000 per 40-acre tracts.

"Mineral lands, unexplored but in ore belt, to be assessed at from $3 to $50 per acre.

"After due notice and a public hearing, the Tax Commission placed a total assessed valuation of $186,720,026 on a total of 1,192,509,757 tons. In addition, the assessed valuation on 1,858 prospects and parcels of mineral lands was raised to $4,986,656. The personalty of the mining companies was assessed, and the total was $4,334,490.

* * * * * * *

"Reclassification and adjustments are necessarily made every year. From the remaining tonnage of the previous year must be deducted overestimates (subject to verification by the mining engineer to the Tax Commission), shipments, and stock piles. New developed tonnage and increases in estimates must be added and rates must be increased as properties pass from reserves to active mines.

"It has been the policy of the commission to keep in close touch at all times with development work on the iron ranges. We are thus enabled to keep fully informed of new discoveries and new tonnages, of changes from reserves to active mines, and of many other matters of importance affecting mineral values."[1]

The Minnesota system of assessing iron-ore properties has been very widely commended in that State. It is not the purpose of the Bureau in this report to enter into a discussion of the merits of the system adopted or the results. A general description of the Minnesota Tax Commission's plan for the valuation of the ore in the ground is given in the 1908 report of the commission, but this description does not show in detail the methods of computing such valuation.

[1] Report of Minnesota Tax Commission, 1910, p. 89.

A very important consideration, so far as the taxation of these properties is concerned, is that the taxes on the entire property, including not only the mining improvements but also the ore in the ground, are assessed to the operating company, which generally has simply a leasehold interest. It is ordinarily stipulated in the leases themselves that the lessee shall pay all these taxes. So far as the ore in the ground in Minnesota is concerned, the major interest at the present time is not that of the leaseholder but that of the fee owner.

A special feature of the situation is the fact that the State of Minnesota itself is the fee owner of extensive iron-ore lands, which it has leased at a uniform rate (25 cents a ton) to various lessees, and it is provided by law that the taxes on such property shall be paid as though the lessee were himself the fee owner. In these cases, therefore, it will be seen, the lessee is assessed and taxed by the State on property which actually belongs to the State.

During 1908 and 1909 there was quite a demand for a change in the present method of taxing ore properties, and the legislature in 1909 passed a bill, which was vetoed. This bill provided a tonnage tax for state purposes and a direct tax for local purposes.

As a result of the first assessment under the present system, namely, the assessment of 1907, revenue for state purposes was increased approximately $500,000, or about 212 per cent. Of this increase about $85,500, or 19 per cent, was, however, due to an increase in the state rate. As shown in the following table, the assessments since 1907 have materially increased, while the revenue has been less, due to lower state rates:[1]

Years.	Amount assessed.	Rate for all state purposes.	Amount of state taxes levied.
		Mills.	
1906	$70,000,000	3.03	$212,100
1907	190,000,000	3.48	661,200
1908	178,000,000	3.33	592,700
1909	200,656,000	2.80	561,800
1910	221,328,000	2.70	597,585

Vessel Tonnage Tax.

In 1909 the 3-cent tonnage tax on vessels yielded $17,252. According to the commission's estimate, based on Lloyd's insurable values, the actual value of vessels paying the tonnage tax

[1] State Auditor's Reports 1907–8, p. xviii; ibid., 1909–10, p. xxii.

was $40,000,000. Assuming that personal property at port was assessable at but 25 per cent of its value, the general property tax, if applicable, would have yielded about seventeen times more than the amount of the tonnage tax. Upon these grounds the commission recommends a return to the ad valorem method of the taxation of vessel property.[1]

New York System of Record Tax on Mortgages Adopted.

The New York system of taxing the registration of mortgages has been adopted by Minnesota.[2] In both States the payment of the registration fee of 50 cents for each $100 of the principal debt or obligation exempts the mortgages and bonds secured thereby from all other taxation.

Bibliography.

The following is a list of the more important publications, in addition to the constitution, the statutes, and the court reports, of value in the study of corporate taxation in Minnesota:

Preliminary Report of Minnesota Tax Commission, 1907.
First Biennial Report of Minnesota Tax Commission, 1908.
Second Biennial Report of Minnesota Tax Commission, 1910.
Biennial Reports of State Auditor, 1903–4, 1905–6, 1907–8, 1909–10.
Annual Report of State Treasurer, 1910.
Inaugural Message of Gov. Johnson, 1907, Executive Documents 1905–6, Vol. I.
Veto Message of Gov. Johnson, Iron Ore Tonnage Tax Bill, Mar., 1909.
Message of Governor to Legislature, 1911.
Opinions of Attorney General, 1894.
Biennial Report of Attorney General, 1910.
Biennial Reports of Secretary of State, 1907–8, 1909–10.
Minnesota Tax Law, Dunnell, 1904.
Iron Ore Manual (1911), by Rukard Hurd.
Essays in Taxation, by Edwin R. A. Seligman.
State and Local Taxation, Addresses, and Proceedings, International Tax Association Conferences, 1907–8.

[1] Report of Minnesota Tax Commission, 1910, p. 138.
[2] Laws, 1907, chap. 328.

NORTH DAKOTA.

I. GENERAL VIEW.

Chief Features.

First. The application of the general property tax to practically all classes of corporations, collected locally for state and local purposes.

Second. The assessment of the property of certain classes of corporations by a state board.

General Property Tax.

All corporate property, unless exempt, is subject to the general property tax for state and local purposes. While the statute provides for the assessment of all property at true value, in practice property is usually assessed at from 15 to 30 per cent of true value.

Steam, Street, and Interurban Railroad, Express, Car, Telegraph, and Telephone Companies.

Property of these companies, used in the conduct of their business in the State, including franchise values, is assessed by the State Board of Equalization. The valuations so assessed, except on car companies, are apportioned to the different counties according to the mileage therein, and similar apportionment is then made by county auditors to local taxing districts, taxes being there levied for state and local purposes. Freight-car companies are assessed by the state board and taxed for state purposes only. Property of these various companies not used in the conduct of their business is assessed locally.

Gas, Electric Light, Water, Manufacturing, and Mercantile Companies.

Companies of these classes are subject to the general property tax, assessed and collected locally for state and local purposes. The excess value of capital stock over the value of tangible property and indebtedness is in theory assessable to these companies locally; but in practice this is not reached.

Stockholders and Bondholders.

Stockholders of corporations whose property is assessed in the State are not required to list such stock for taxation; but otherwise shares of stock are taxable in the same manner as other personal property.

Bonds of foreign and domestic corporations are taxable to holders.

Foreign Corporations.

There is practically no difference between the assessment and taxation of foreign corporations of the classes herein treated and of similar domestic corporations.

Administration.

The State Board of Equalization, consisting of the governor, state auditor, state treasurer, attorney general, and commissioner of agriculture and labor, assesses and apportions the valuation of property of certain public-service corporations. This board equalizes the assessment of property as returned by county auditors, but can not reduce by more than 1 per cent the aggregate valuation of all property in the State. It also determines the state rate on general property.

County boards of review and equalization (composed of the members of the boards of county commissioners) pass upon and equalize all local assessments and review the work of town boards.

Local assessors receive instructions from county auditors and meet annually for that purpose.

The general property tax for state and local purposes is paid as one item to the county treasurer. The tax on car companies is paid to the state treasurer.[1]

The legislature of 1911 provided[2] for the establishment of a permanent tax commission, to be composed of three members appointed by the governor not earlier than July 1, 1912. The cardinal duties of this commission may be summarized as follows:

(1) To exercise general supervision over the administration of the tax laws of the State and to have general supervisory powers over local tax officials.

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[1] Sources of revenue in North Dakota:

Municipal and local districts.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses; (*d*) fines, fees, etc.

County.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses, (*d*) fines, fees, etc.

State.—(*a*) General property tax; (*b*) corporation taxes (from corporations other than those treated herein), (*c*) business taxes and licenses, (*d*) fines, fees, etc.

[2] Laws, 1911, chap. 303.

(2) To advise with the State Board of Equalization and aid said board in the discharge of its duties.

(3) To investigate the tax systems of other States and countries and recommend legislation aimed to secure just and equal taxation.

(4) To assess light, heat, and power companies.

II. DETAILS AS TO THE CONSTITUTION AND STATUTES.

CONSTITUTION.

The constitution prohibits the passing of local or special laws for: (1) The granting of special privileges, immunities, or franchises; (2) the assessment and collection of taxes; (3) the exemption of property from taxation;[1] (4) the application of any tax to an object other than that for which it was provided.[2]

The legislature shall provide for raising revenue sufficient to defray the expenses of the State for each year, not to exceed 4 mills on the dollar of the assessed valuation, and also a sufficient sum to pay the interest on the state debt.[3]

"Laws shall be passed taxing by uniform rule all property according to its true value in money."[4]

All property shall be assessed in the local district in which it is situated, except that the assessment and apportionment of the taxable value of certain public service corporations is made by the State Board of Equalization.[5]

The legislature may provide for a gross-earnings tax on railroad companies in lieu of other taxation on property exclusively used in the prosecution of their business as common carriers, but no real estate other than roadbed, right of way, shops, and buildings shall be exempt.[4] Roadway used for any purpose other than the operation of the road shall be assessed in the same manner as other real property.[5] The constitution also provides that domestic railroad companies shall make reports of such matters as may be prescribed by law.[6]

The legislature may provide that grain grown within the State and held there in elevators, warehouses, and granaries may be taxed at a fixed rate.[7]

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[1] Constitution, 1889, Art. II, sec. 69.
[2] Ibid., Art. XI, sec. 175.
[3] Ibid., Art. XI, sec. 174.
[4] Ibid., Art. XI, sec. 176.
[5] Ibid., Art. XI, sec. 179, as amended.
[6] Ibid., Art. VII, sec. 140.
[7] Ibid., Art. XI, sec. 176, as amended.

STATUTES.[1]

General Property Tax.

All property, including moneys and credits, unless exempt, is subject locally to the general property tax for state and local purposes.[2]

In theory the excess of market value of capital stock over the value of tangible property and indebtedness is taxable under the general property tax to practically all corporations, domestic or foreign, except railroad, telegraph, telephone, car, and financial companies. In practice, however, this excess is not assessed.[3] All property is required by statute to be assessed at the true value in money,[4] but in practice it is assessed at from 15 to 30 per cent of the true value.[5]

The principal place of business is made the situs of personal property for taxation purposes.[6]

Steam, Street, and Electric Railroads.

Steam, street, and electric railroads, foreign and domestic, pay locally the general property tax for state and local purposes on the value of property and franchise. Assessment is by the State Board of Equalization.

Railroad property is classified as follows:

(*a*) Main lines, consisting of main trunk lines, which by reason of the amount of through traffic carried, superior construction, etc., are considered the most valuable stretches of track operated in the State.[6]

(*b*) Secondary mains, which carry some through traffic, are of cheaper construction and are, in general, less valuable than main lines.

(*c*) Branch lines, which are feeders to main and secondary lines.

(*d*) Double track, which is the second track of main lines only.

(*e*) Sidings, which are industrial switches and loading tracks.

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[1] Except as otherwise indicated, the references herein are to the Revised Codes, 1905.

[2] Codes, secs. 1481, 1545.

[3] Interview with deputy state auditor, Aug. 23, 1911.

[4] Codes, secs. 1480, 1496, 1512.

[5] Codes, sec. 1488.

[6] The following are illustrations of classes *a*, *b*, and *c*. The first main line of the Great Northern Railroad runs from Moorhead to Grand Forks Junction and from there to the Montana state line, thus forming a part of this system's trunk line through the State. The line of the Great Northern from Grand Forks to the international boundary at Neche and from Wahpeton to Devils Lake via Castleton is a sample of secondary main line. A sample of branch line of the same road is the track running from Hanna to Larimore.

In assessing railroads the State Board of Equalization first agrees upon a valuation per mile of road for each of the above classes. This valuation as applied to classes *a*, *b*, and *c* is then separated into the items franchise, roadway, roadbed, rails, and rolling stock,[1] all of which are assessed as personal property.[2]

The method of determining the valuation of the various items is known only to the State Board of Equalization. The assessment in general, however, is based upon reports which the roads file with the Railroad Commissioners.[3] These reports contain certain information specifically required by statute, such as the number, par, and market value of shares of capital stock, the length and location of tracks, etc., and additional data desired specifically requested.[4]

Property not used in the railroad business is assessed like the property of individuals.[5] Assessments by the State Board of Equalization [6] are apportioned by it on a mileage basis to the counties through which such roads pass. A similar apportionment is then made by the respective county auditors to the local taxing districts.

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[1] Roadway "includes not only the strip of ground upon which the main line is constructed, but all ground necessary for the construction of sidetracks, turnouts, connecting tracks, station houses, freight houses, and all other accommodations reasonably necessary to accomplish the object of their incorporation. Under our constitution this roadway must be assessed by the State Board of Equalization, and is not assessable by the local assessor." C., M. & St. P. Ry. Co. *v.* Cass County, 8 N. Dak., 18, 22 (1898).

A railroad company doing a commercial business over a telegraph line was held liable to a separate assessment on such line as a telegraph company, though it did not appear that any franchise had been granted for this business. The railroad contended that the telegraph line was included under the term "roadway." The court said: "If the fact that the telegraph line is used for profit in handling commercial business could be eliminated from the case, this contention would be upheld as based upon reason and authority." M., St. P. & Sault Ste. Marie Ry. Co. *v.* Oppegard, 18 N. Dak., 1 (1908).

[2] Codes, secs. 1627–1629.

The franchise, roadway, roadbed, rails, and rolling stock of a railroad are personal property for purposes of taxation. M., St. P. & Sault Ste. Marie Ry. Co. *v.* Dickey County, 11 N. Dak., 107 (1902).

[3] Codes, sec. 1627.

[4] Codes, sec. 4363 et seq.

[5] Codes, sec. 1481 et seq.

[6] Steam railroads are assessed at about 25 per cent of their true value. Interview with deputy state auditor, Aug. 23, 1911. It is probable that the assessment of street and electric railways is not far from that percentage.

Express, Telegraph, and Telephone Companies.

Express, telegraph, and telephone companies, foreign and domestic, pay locally the general property tax for state and local purposes on the value of property and franchise. Assessment of property used exclusively in the express, telegraph, and telephone business is by the State Board of Equalization.[1] Other property is assessed locally. The board is bound by no statutory rules in the matter of making assessments, and, as in the case of railroads, it does not reveal its exact method of determining values.

Express companies are assessed at an agreed valuation per mile of the railroad over which they operate; and telegraph companies at an agreed valuation per mile of route. These valuations are separated into the items "franchise" and "all other property." Thus the Great Northern Express Co., operating over 1,544 miles of the Great Northern Railway in North Dakota in 1910, was assessed at $90 per mile on "franchise" and at $10 per mile on "all other property."[2] Apportionment is made to counties according to the number of miles therein of railroad main, second main, and branch lines over which the companies operate.

For the purpose of taxation the property of long-distance rural and toll-line telephone companies is classified as "franchise and poles," "iron wire," "copper wire," and real estate. These are separately assessed at a valuation per mile. The valuation per mile of poles is determined according to size, number, cross arms attached, etc. To this is added an agreed amount per mile to cover the value of franchise. The total of these two items, multiplied by the route mileage in each county, is assessed to the company as "franchise and poles."[3] The valuation per mile for this classification, due to volume of business, etc., may vary with each county, but iron and copper wires are assessed at a stated figure per mile of wire, respectively, for the entire State.[4]

Exchanges are assessed on telephone instruments at graduated rates based on the number of subscribers. The rate per telephone covers assessments for poles, wires, switchboards, etc., of exchanges. A separate assessment is made of real estate, such as lots and

[1] Laws, 1907, chap. 216.

[2] Proceedings of State Board of Equalization, 1910, p. 72.

[3] Interview with deputy state auditor, Aug. 23, 1911.

Express, telegraph, and telephone property is assessed at about 30 per cent of true value.

[4] The 1910 assessment for iron wire was $4, for copper wire $10, and for "franchise and poles" from $10 to $75 per mile. Report of State Board of Equalization, 1910, p. 83.

buildings owned by telephone companies and used exclusively for telephone purposes.[1]

These classes of companies are required to furnish the board statements showing in detail the property owned by them and necessary for the operation of their various lines of business. In addition they are required to show the gross receipts, and any other necessary information desired by the board.[2]

Freight Line and Sleeping Car Companies.

In theory these companies, foreign and domestic, are taxable in the same manner and under the same act as express, telegraph, and telephone companies,[2] namely, under the general property tax payable locally for state and local purposes. In practice, however, freight-line companies are taxed by the State at the state rate for state purposes. Assessment is by the State Board of Equalization and in practice is based on 4 per cent of gross earnings.[3]

Each freight-line company is required to report to the State Board of Equalization among other items its gross receipts. These are verified by reports from railroads showing all payments made by the roads to freight-line companies.

In this State there are no sleeping car companies actually taxed, for the reason that the sleeping cars operated by the Soo, the Chicago, Milwaukee & St. Paul, and the Chicago, Milwaukee & Puget Sound, together with the Great Northern, are owned exclusively by those railroad companies. The Northern Pacific Railway Co. operates Pullman cars in which it owns one-half interest and the Pullman Co. owns the other half. In this instance the railroad company is taxed and it settles with the Pullman Co. for the latter company's share of such taxes.[4]

Gas, Water, and Electric Light Companies.

These companies pay locally the general property tax on tangible property for state and local purposes. In theory the excess of

[1] Interview with deputy state auditor, Aug. 23, 1911.

"Lots which are owned by telephone exchange companies or companies having telephone exchanges are not assessed this year by the State Board of Equalization but have been returned to the county to be assessed by the local assessor in the town in which the exchange may be located." Letter from state auditor, Nov. 20, 1911.

The 1911 assessment on telephone exchanges, including instruments, switchboards, poles, wires, etc., per telephone, was as follows: 50 subscribers or less, $10; 50 to 100 subscribers, $12.50; 100 to 250 subscribers, $16; 250 to 500 subscribers, $18; 500 to 1,000 subscribers, $20; 1,000 subscribers and over, $22. Report of State Board of Equalization, 1911, p. 67.

[2] Laws, 1907, chap. 216.

[3] Interview with deputy state auditor, Aug. 23, 1911.

[4] Letter from state auditor, Nov. 20, 1911.

market value of capital stock over the value of tangible property and indebtedness is assessable locally to these companies; but in practice this excess is not reached.

The personal property of gas and water companies, including mains and pipes in place, is assessed in the town in which the works are located.[1] Other property of these companies, real and personal, is taxed at its situs.[2]

Mercantile, Manufacturing, Mining, and Miscellaneous Corporations.

Corporations of these classes pay locally the general property tax for state and local purposes. The excess value of capital stock is in theory assessable in the same manner as that of gas, water, and electric companies. In practice this excess is not taxed.

The situs of personal property of merchants and manufacturers is their office or principal place of business in the State, or in the absence of such place of business the town or district in which the business is carried on.[3]

"Mine and quarry property is valued at what such property would sell for at a fair voluntary sale for cash."[3]

Grain grown within the State and held in elevators, warehouses, and granaries, is taxed for state and local purposes at the following specified rates per bushel: Flax, one-half cent; wheat, three-eighths cent; oats, barley, corn, speltz, and rye, one-eighth cent; and all other grain is taxed under the general property tax for state and local purposes in the same manner as other property.[4]

Every corporation (except banking, railroad, express, car, telegraph, and telephone companies) is required to report annually, to local assessors, details with respect to its capital stock, indebtedness, and value of real and personal property.[5]

Stockholders and Bondholders.

Shares of stock of foreign and domestic corporations are not taxable in the hands of holders when the corporate property is taxed in the State; otherwise they are taxable.

Bonds of foreign and domestic corporations are taxable to the holder.[6]

Among the classifications of personal property upon which few or no returns are made, are bonds, stock, and credits, except bank stock, and credits of banks and of brokers.[7]

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[1] Codes, sec. 1490.
[2] Codes, sec. 1488.
[3] Codes, sec. 1512.
[4] Laws, 1907, chap. 217.
[5] Codes, sec. 1503.
[6] Codes, secs. 1487, 1495.
[7] North Dakota State Tax Association Bulletin No. 1, Dec., 1910, p. 10.

Foreign Corporations.

Foreign corporations of the various classes herein considered are taxed in practically the same manner as similar domestic corporations.

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 24 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED OCTOBER 31, 1910.[1]

Total state receipts, all sources		$4,328,805.97
State taxes from corporations:		
Railroads[2]	$209,327.39	
Telegraph[2]	1,524.21	
Telephone[2]	4,896.96	
Express[2]	1,649.14	
Street railroads[2]	203.50	
Insurance taxes and fees	140,023.63	
Incorporation fees	28,931.00	
Private car lines	1,084.29	
Total state taxes from corporations		387,640.12
Other taxes:		
Creamery licenses	1,770.00	
Elevator licenses	2,071.00	
General property tax[3]	1,207,774.03	
Total state taxes not from corporations		1,211,615.03
Total taxes for state purposes, all sources		1,599,255.15
Receipts from sources other than taxes:		
Land sales	832,617.34	
Interest on public funds, bonds, farm loans, etc	1,185,471.18	
Leasing	76,849.13	
Twine plant and trolley line	212,924.06	
Maintenance, state institutions	80,100.95	
Oil inspection fees	59,345.69	
Game and fish fund	22,464.70	
Redemption of bonds	73,450.00	
Five per cent of Government land sales	55,167.40	
Miscellaneous	131,160.37	
Total receipts from sources other than taxes		2,729,550.82
Total state receipts, all sources		4,328,805.97

[1] Report of State Treasurer, 1910, and of State Board of Equalization, 1909.

[2] Estimated by applying the total state rate of 5.2 mills to the assessed valuations of the property as shown by the report of the State Board of Equalization, 1909, p. 239.

[3] Part of this comes from local taxation of corporations, but it is impossible practically to ascertain the amount thus received, except the amounts above estimated, which are not included in this item.

IV. COMMENTS.

Historical.

Minnesota adopted the revenue laws of New York and Ohio, and later North Dakota took from Minnesota that part of her laws relating to taxation.[1]

The taxation of corporations as distinguished from the taxation of individuals was confined during the Territorial government almost wholly to telegraph and railroad companies. The system of taxing telegraph companies at a specified rate per mile of route in lieu of other taxes was adopted in 1881.[2]

Railroad property in Dakota Territory prior to 1879 was taxed in the same manner as that of individuals. The legislature in that year adopted a gross-earnings tax which was in commutation of taxes on operating property only.[3] Four years later the law was amended so as to include among the commuted taxes those on land-grant property.[4] The result was to exempt from taxation a considerable portion of the area now forming the State of North Dakota. The validity of this commutation was sustained in 1892 by the supreme court of North Dakota.[5] Two years later, however, the same court reversed its former decision and declared that the Territorial legislature was without authority to exempt these lands from taxation.[6]

Under this law (Laws, 1883, chap. 99) the Territory attempted to collect taxes on interstate earnings, but that part of the act relating to interstate earnings was judicially declared unconstitutional.[7] The restrictions thus imposed resulted in diminishing the prospective amount of railroad taxes in this case by nearly 85 per cent.[8]

The laws of 1889 repealed the act of 1879 (as amended 1883) and provided that railroads, at their option, could pay either the general property tax as applied to individuals, or an amount

[1] North Dakota State Tax Association Bulletin No. 1, Dec., 1910.

[2] Laws, 1881, Dak. Ter., chap. 132.

[3] Laws, 1879, Dak. Ter., chap. 46. The tax rate was 2 per cent for the first five years, and 3 per cent thereafter.

[4] Laws, 1883, Dak. Ter., chap. 99.

[5] Northern Pacific R. R. Co. *v.* Barnes, 2 N. Dak., 310 (1892); Fargo & S. W. Ry. Co. *v.* Brewer, 3 N. Dak., 34 (1892).

[6] Northern Pacific Railroad Co. *v.* McGinnis, 4 N. Dak., 494 (1894).

[7] Northern Pacific Railroad Co. *v.* Raymond, 5 Dak. Ter., 356; 1 L. R. A., 732 (1888).

[8] Ibid. Interstate receipts of the Northern Pacific were stated in this case as $2,654,756; within the Territory, $395,330.

equal to a certain percentage of their state and interstate gross earnings, in lieu of other taxes.[1]

The present method of taxing railroads on the ad valorem basis and assessment of railroad property by the State Board of Equalization was adopted by the first state legislature.[2] At the same session, laws were passed providing that express companies should pay a state license graduated according to the number of people inhabiting each place where an agency was located,[3] and that sleeping car companies should pay an annual license of $100 for each car operated.[4]

The act of 1901 made express, telegraph, telephone, freight-line, and equipment companies assessable by the State Board of Equalization and taxable on franchise and property.[5] In 1905 electric, interurban, and street railways were required to be assessed and taxed in the same manner as steam railroads.[6]

Levies and Assessments.

In 1900 the total of taxes levied for both state and local purposes was approximately $3,400,000. In 1910 this had increased to a little more than $10,000,000. Of the taxes collected in 1900 about $500,000 was from railroads. No other corporations, as such, paid taxes at that time. Of the $10,000,000 received in 1910 the following approximate amounts were paid by corporations: Railroads, $1,500,000; telephone companies, $40,000; express companies $13,000; telegraph companies, $12,000; and street railways, $2,000.[7]

The total assessed valuation of all taxable property increased from approximately $92,000,000 in 1897 to $278,000,000 in 1910, or about 200 per cent. Railroad assessments for the same period increased from $3,150 per mile to $9,483 per mile, or about 200 per cent.[8] Telephone, telegraph, and express companies were first assessed by the State Board of Equalization in 1901. Between that year and 1910 the assessments have increased as follows: Telephone companies from $108,000 to $1,074,000; telegraph companies

[1] Laws, 1889, Dak. Ter., chaps. 105, 107. The rate on earnings was 3 per cent for five years and 2 per cent thereafter.

[2] Laws, 1890, chap. 135.

[3] Ibid., chap. 136.

[4] Ibid., chap. 137.

[5] Laws, 1901, chap. 26.

[6] Laws, 1905, chap. 151.

[7] Data from state auditor, Aug. 23, 1911.

[8] The railroad mileage, exclusive of sidings, was in 1897, 2,536, assessed at approximately $8,000,000; in 1910, 4,247, assessed at approximately $40,000,000.

from $287,000 to $325,000; express companies from $139,000 to $360,000.

The following table shows for selected years the total assessed valuation of all property by class, railroad mileage, state levy, and amount of state taxes:

Classes.	1897	1901	1905	1910
Real estate	$62,816,904	$77,989,198	$113,127,196	$184,589,989
Personal	20,920,559	28,085,797	37,097,598	51,909,379
Railroad	7,985,527	17,983,367	22,477,987	40,276,266
Telephone	.....	108,017	466,650	1,074,033
Telegraph	.....	287,290	207,917	325,833
Express	.....	139,220	156,154	359,713
Street railway	.....	.....	17,575	58,980
Total valuation, all assessed property	91,722,990	124,592,789	173,551,077	278,594,193
Railroads:				
Main and branch lines....miles	2,536	2,785	3,218	4,247
Sidetracks....do	237	367	482	765
Tax levy, state only....mills	4·4	7	5·3	4·4
State taxes....dolls	403,581	872,149	919,820	1,225,814

The State Board of Equalization made a general increase of over 21 per cent in all assessments for 1910 as compared with 1908.[1]

Local Assessments Unsatisfactory.

After emphasizing the extent of popular disfavor with the system of local assessment, advocating assessment of all property at actual cash value, and condemning injustice due to unequal assessment, the governor, in his message to the legislature of 1901,[2] proposed the following remedy:

"It would be a great step in the right direction if there were but one assessor in each county, and he should be appointed for a term of four years by the judge of the district court in which that county is located, the appointments to be approved by the county commissioners, who should also decide the number of deputies that he should have, and should also approve his selections. By having the appointment of the assessor made by the judge and for a period of four years, he is removed from temptation to favor parties for their political influence, and he would be far more independent in his attempts to discover property that is withheld from assessment.

"Today we have quite an army of assessors, largely men of little practical experience, elected for one year, and dependent for their reelection upon the men whose property they are valuing.

[1] Interview with deputy state auditor, Aug. 23, 1911.

[2] House Journal, 1901, p. 19.

In view of this condition, I would suggest not a change in the existing law, but a change in the manner of executing it."

The governor's messages to the 1907 and 1909 legislatures,[1] also recommended the assessment at actual value of all property, in order that it might pay in just proportion for the support of government which safeguards property rights.

Necessity for Physical Valuation of Public Service Corporation Property.

A special Public Service Inquiry Commission consisting of the governor, lieutenant governor, and speaker of the house, was appointed by the 1907 legislature. The commission investigated, and reported to the legislature certain detailed information with respect to corporations for the purpose of enabling it to enact laws for the more efficient regulation and safer operation of public-service corporations, and to furnish the state board information for use in assessing public-service corporations.

The unpublished report of the commission, filed with the secretary of state, contained considerable information with respect to the property of railroad and express companies, which was said to be of great value to the last Board of Equalization in that it formed a basis for the increase of $1,000 per mile in the assessed valuation of railroads.

The commission stated that the value of the property owned by express companies as reported to it is not a just basis for assessment and taxation, considering the large business and profits of these companies.

With respect to its inability to obtain information as complete as it desired, the commission concluded that "the State will never be able to acquire accurate information until such time as some one with special fitness and training, acting for and by the authority of the State, shall make an exhaustive physical examination of the properties of the different public-utilities corporations." [2]

The commission sought information relative to the actual value of all property, mileage, capitalization, bonded indebtedness, gross earnings, operating expenses, fixed charges, and other data affecting rates of carriage and transmission, of each railroad, car, express, telegraph, and telephone company doing business in the State.

Objections to furnishing the information were made by some of the railroad companies on the ground that it was impossible to estimate the proportional value of their property in North Dakota as forming part of a system extending through several States.

[1] Governor's Message, 1911, p. 17.

[2] House Journal, 1909, p. 1026.

The following abstracts taken from the statement of the commission's conclusions presented to the 1909 legislature illustrate the unsatisfactory character of the data obtained from corporations:[1]

The Great Northern Railroad reported that it had 690.63 miles of main line and 853.42 miles of branch lines, which the company valued at $31,000 and $20,000 per mile, respectively.

The Northern Pacific Co. estimated the cost per mile of reproducing the 1,462.53 miles of its main and branch lines and sidings in the State at $40,794 per mile.

The Chicago & North Western estimated its 14.28 miles at $17,946 per mile.

The Chicago, Milwaukee & St. Paul reported that it did not know the value of its 153.31 miles.

The Farmers' Grain & Shipping Co., with 53 miles, reported a cost of $10,627.48 a mile.

The Minneapolis, St. Paul & Sault Ste. Marie, with a mileage of 1,083.41, did not value its lines.

The Great Northern Express Co. operated over 1,562.59 miles; has personal property to the value of $15,092; its earnings on local business in 1907 were $96,801.86, and cost of operating, $95,161.68.

The Northern Express Co. operated over 1,164 miles, and its personal property was valued at $10,613.60. It did not give its earnings.

The United States Express Co. mileage was 256.22, value of personal property $485.85, gross earnings in 1907 on local business $41,186.05, and operating expenses $41,576.86.

The Western Express Co. reported a mileage of 1,171.82, value of personal property $1,799.04. No earnings in the State were given.

Bibliography.

The following is a list of the more important publications, in addition to the constitution, the statutes, and the court reports, of value in the study of corporate taxation in North Dakota:

Messages of the Governor, 1901, 1907, 1909, and 1911.
House Journals, 1901, 1909.
Report of the State Treasurer, 1910.
Proceedings of the State Board of Equalization, 1908, 1909, 1910.
North Dakota State Tax Association Bulletin No. 1, December, 1910.
State and Local Taxation, Addresses and Proceedings, International Conference, 1907–1910.

[1] House Journal, 1909, p. 1023, et seq.

SOUTH DAKOTA.

I. GENERAL VIEW.

Chief Features.

First. The broad application of the general property tax.

Second. The assessment of practically all state-wide public-service corporations by a central state board.

Third. The taxation of the property of certain public-service corporations at the average rate of taxation.

General Property Tax.

Corporations, domestic and foreign, are subject to the general property tax only. Assessment of operating property of railroad, express, telegraph, telephone, and sleeping car companies is by the State Board of Assessment and Equalization. The tax on railroad and telephone companies is paid locally for state and local purposes at the general property tax rates. The tax on telegraph, express, and sleeping car companies is paid to the State for state and local purposes at the average of state, county, and local rates.

Street railway, road, bridge, gas, water, mercantile, and manufacturing corporations pay the general property tax locally for state and local purposes. Assessment is by local officials.

All property is assessed at about one-third the full value.

Stockholders and Bondholders.

When the property of the corporation is taxed in South Dakota the shares are not taxed to the holders. Bonds of foreign and domestic corporations are taxable in the hands of the holders.

Foreign Corporations.

Foreign corporations of the classes herein considered are taxed in practically the same manner as similar domestic corporations.

Administration.

The State Board of Assessment and Equalization, consisting of the governor, state auditor, secretary of state, state treasurer, and commissioner of school and public lands, assesses annually the property of domestic and foreign railroad, telegraph, telephone, express, and sleeping car companies. It acts as a state

equalizing board as between counties, and determines the state rate of taxation.

Payment under the general property tax, except in the case of corporations subject to the average rate of taxation, is made to county treasurers. Taxes assessed at the average rate are paid to the state treasurer.[1]

II. DETAILS AS TO THE CONSTITUTION AND STATUTES.

CONSTITUTION.

The constitution requires that the legislature shall provide for an annual tax to defray ordinary expenses,[2] and that taxation shall be uniform on all real and personal property, so that every person and corporation shall pay a tax in proportion to the value of property owned.

The legislature is required to "provide by general law for the assessing and levying of taxes on all corporation property, as near as may be by the same methods as are provided for assessing and levying of taxes on individual property."[3]

The power to tax corporations and corporate property can not be surrendered or suspended by any contract or grant to which the State is a party.[4]

STATUTES.[5]

General Property Tax.

Corporations, domestic and foreign, except as otherwise provided, pay locally the general property tax for state and local purposes.[6] In theory the excess of aggregate market value[7] of shares of stock over tangible corporate property is taxable under

[1] Sources of revenue in South Dakota:

Municipal and local districts.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses; (*d*) fines, fees, etc.

County.—(*a*) General property tax; (*b*) corporation taxes (from corporations other than those treated herein); (*c*) poll tax; (*d*) business taxes and licenses; (*e*) fines, fees, etc.

State.—(*a*) General property tax; (*b*) corporation taxes (from corporations other than those treated herein); (*c*) business taxes and licenses; (*d*) fines, fees, etc.

[2] Constitution, 1889, Art. XI, sec. 1.

[3] Ibid., Art. XI, sec. 2.

[4] Ibid., Art. XI, sec. 3.

[5] Except as otherwise indicated, the references herein are to the Revised Political Code, 1903.

[6] Code, secs. 2053–2059. A provision for the deduction of debts when listing property for taxation was declared unconstitutional. Advisory opinion of supreme court rendered to governor. 4 S. Dak., 6 (1893).

[7] Code, sec. 2079.

the general property tax, but in practice this excess is not reached.[1] The principal place of business is made the situs of personal property for taxation purposes.[2]

The law provides that assessment of property in general shall be at full value,[3] but in practice property is usually assessed at about one-third of full value.[1]

Improvements made by others than owners upon land belonging to corporations, whose property is assessed in a manner different from other property, are not taxed to the owners of the land as realty, but are taxed to the owners of the improvements as personalty.[4]

Railroads.

Domestic and foreign steam railroads pay the general property tax locally for state and local purposes.[5] Property used in operation, namely, rolling stock, right of way, roadbeds, bridges, culverts, depots, etc., is assessed by the State Board of Assessment and Equalization.

The state board assesses separately for main line and branches the value per mile of property of each railroad company situated outside the incorporated cities and towns. This valuation is apportioned on the mileage basis among the counties through which the lines pass. The state board also assesses the property of railroads located in incorporated cities and towns. With this assessment is included a mileage-proportion valuation of rolling stock.

The assessments are based on reports from the railroad companies, showing mileage, valuation per mile, value of rolling stock, and numerous details with respect to the value of all operating property.[6] One-third of this valuation is assessed and certified by the state board to the counties and incorporated cities and towns, and is there taxed for both state and local purposes. Franchise is not assessed to railroads.

Property not used in operation is subject to local assessment.[7]

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[1] Interview with state auditor, Aug. 28, 1911.

[2] Code, sec. 2059.

[3] Code, secs. 2052 2085,.

[4] Code, sec. 2055.

[5] Laws, 1907, chap. 64, secs. 1–10.

[6] The report of the Board of Railroad Commissioners is made too late for use in a current year's assessment, but reports of previous years are sometimes consulted by the State Board of Assessment and Equalization in assessing railroad property. Interview with state auditor, Aug. 28, 1911.

[7] This rule extends to property not actually necessary to present operation, held for future use in railroad business. St. P., M. & M. Ry. Co. *v.* Howard, 23 S. Dak., 34 (1909).

Express, Car, and Telegraph Companies.

Domestic and foreign companies of these classes pay to the State, for state and local purposes, a property tax [1] at the average rate of taxation.[2] The assessment includes only property used in the business, and the tax is in lieu of all other taxes on such property.

Express companies are assessed on the value of their tangible and intangible property. Assessment by the State Board of Assessment and Equalization is based on reports showing, among other items, total value of all property and total gross earnings. The method of determining the value of intangible property could not be ascertained,[3] but the following illustration taken from records of the state auditor shows that intangible values of express companies exceed, by a considerable amount, the value of tangible property as reported to the board.[4] Thus: "The Wells-Fargo Express Co. reported the value of its property at $19,891. They were assessed at $333,358, which last figure is supposed to be one-third of the true value."

Sleeping car companies are also assessed on the value of tangible and intangible property. The valuation of tangible property is based on the value of the average number of cars operated in the State. As in other instances, the method of determining the value of intangible property could not be definitely ascertained, but another illustration from the records of the auditor shows that the value of tangible property of a certain sleeping car company was reported at $40,000 and the gross earnings at $22,000. This company was assessed at $50,000. Freight-car companies are not taxed.[5]

The assessment of telegraph companies is accomplished in practically the same manner, namely, upon the reported value of

[1] Laws, 1907, chap. 64, secs. 12–23; Laws, 1911, chap. 248.

[2] The average state, county, and local taxes throughout the State combined. Laws, 1907, chap. 64, sec. 17.

[3] Interview with state auditor, Aug. 28, 1911.

The statute requires the State Board of Assessment and Equalization to value and assess property of express companies and their valuation and assessment is final. State ex rel. American Express Co. *v.* State Board of Assessment and Equalization, 3 S. Dak., 338 (1892).

[4] The constitutionality of this method of assessment is now being tried in court. Interview with state auditor, Aug. 28, 1911. See also Comments under subheading "Improvements Recommended in Tax System."

[5] Interview with state auditor, Aug. 28, 1911.

the tangible property plus an amount which more or less approximates the annual gross earnings.

Taxes on express, telegraph, and sleeping car companies are paid to the state treasurer, who retains that part of the tax which is represented by the state rate, and the remainder is distributed among the counties and incorporated cities and towns through which the lines or routes pass, in that proportion which the value of property of said companies in each locality bears to the entire value of such property in the State.[1]

Telephone Companies.

Domestic and foreign telephone companies pay the general property tax locally for state and local purposes.[2] Telephone property used in operation is for purposes of assessment classified as toll lines, rural lines, and property located in incorporated cities or towns.

Assessment of toll and rural lines by the state board is based on reports from telephone companies showing, by counties, the average value per mile of wire and poles, the number of instruments and location of exchanges used outside of incorporated cities and towns for toll and rural-line service. These reports make a heavy allowance for depreciation.[3]

From these data the state board compiles a table of equalized values per mile which under the classifications "poles" and "wire" includes the various items essential to operation.[3] Property of telephone companies located within incorporated cities and towns and used in operation is also assessed by the state board. Exchanges are assessed on the basis of the number of telephones operated from each exchange.[4] Real estate, buildings, etc., used in operation are separately assessed by the state board.

Assessment of toll and rural lines is apportioned on a mileage basis among the counties through which the lines extend, and assessment of exchanges, lines, etc., located within incorporated

[1] Interview with state auditor, Aug. 28, 1911.

[2] Laws, 1911, chap. 84.

[3] Interview with state auditor, Aug. 28, 1911.

For 1911 the equalized valuations were: For toll lines—poles, $25 per mile of route; copper wire, $10 per mile of wire; iron wire, $4 per mile of wire. For rural lines—20 poles per mile, $10 per mile of route; 25 poles per mile, $15 per mile of route; iron wire, $4 per mile; copper wire, $10 per mile.

[4] The 1911 assessment per telephone was as follows: 50 telephones or less, $10; 50 to 100 telephones, $12.50; 100 to 200, $15; 200 to 300, $17.50; 300 or more, $20. Interview with state auditor, Aug. 28, 1911.

cities or towns is apportioned to these municipalities.[1] Property not necessary to the operation of telephone companies is assessed locally.[2]

Street Railway, Road, and Bridge Companies.

Domestic and foreign companies of these classes pay the general property tax locally for state and local purposes. In theory the excess of aggregate market value [3] of shares of stock over tangible corporate property is taxable under the general property tax, but in practice this excess is not assessed. The principal place of business is made the situs of personal property for taxation purposes, and tracks, roads, and bridges are taxed as personal property.[4]

Gas and Water Companies.

These companies, whether domestic or foreign, pay the general property tax, and are assessed in the same manner as street railway, road, and bridge companies. Personal property of gas and water companies, which by statute includes mains and pipes, is, however, listed where located.[5]

Manufacturing, Mercantile, and Miscellaneous Corporations.

Domestic and foreign corporations of these classes pay locally the general property tax for state and local purposes. In theory the excess of aggregate market value [3] of shares of stock over tangible corporate property is taxable under the general property tax, but in practice this excess is not taxed.

Stockholders and Bondholders.

Shares of stock in corporations, domestic and foreign, whose property is taxed in South Dakota are not taxed in the hands of holders. Shares of stock in other corporations and bonds of domestic and foreign corporations are taxable to holders.[6]

Foreign Corporations.

Foreign corporations of the classes herein considered are taxed in practically the same manner as similar domestic corporations.

[1] Laws, 1911, chap. 84.
[2] Code, secs. 2057, 2058.
[3] Ibid., sec. 2079.
[4] Ibid., sec. 2062.
[5] Ibid., sec. 2061.
[6] Ibid., sec. 2058.

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 18 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED JUNE 30, 1910.[1]

Total state receipts, all sources		$3,182,913.87
State taxes from corporations:		
Railroad companies[2]	$122,000.40	
Telephone companies[2]	3,868.54	
Telegraph companies[2]	1,292.87	
Express companies[2]	1,702.06	
Car companies[2]	168.00	
Insurance companies	117,337.11	
Fire marshal tax	7,715.98	
Corporation fees[3]	19,691.25	
Total state taxes from corporations		273,776.21
Other taxes:		
Inheritance tax	4,143.28	
Dairy tax	1,213.02	
Bee tax	35.67	
Hotel licenses	2,296.00	
Hunters' licenses	13,659.35	
Opera house licenses	260.00	
General property tax[4]	1,242,422.69	
Total state taxes not from corporations		1,264,030.01
Total taxes for state purposes, all sources		1,537,806.22
Receipts from sources other than taxes:		
United States Government Soldiers' Home aid	20,060.75	
Land sales	667,388.86	
Five per cent sales of Government lands	40,567.34	
Lease of lands	287,122.05	
Interest on deposits	15,549.49	
Miscellaneous interest	374,155.37	
Miscellaneous receipts	240,263.79	
Total receipts from sources other than taxes		1,645,107.65
Total state receipts, all sources		3,182,913.87

[1] Reports of State Treasurer, State Auditor, and Secretary of State.

[2] Estimated by applying the state rate of 4 mills to the assessed values as shown in Report of State Auditor, 1910, p. 113.

[3] Estimated.

[4] Part of this comes from local taxation of corporations, but it is impossible practically to ascertain the amount thus received, except the amounts above estimated, which are not included in this item.

IV. COMMENTS.

Historical.

The act of March 2, 1861, organizing the Territory of Dakota, provided that no "discrimination be made in taxing different kinds of property; all property subject to taxation shall be in proportion to the value of the property taxed." [1]

The first session of the legislature of the Dakota Territory provided for: (1) Assessment of all corporate property and of shares of stock at full cash value; (2) a tax of 2 per cent on insurance premiums;[2] (3) exemption from taxation of woolen manufactures for a term of 15 years, cotton manufactures for a term of 20 years, and one-half the value of all other "manufactures" for a term of five years.[3]

This session also provided a general law for incorporating manufacturing, mining, lumbering, agricultural, mechanical, and chemical companies.[4] Six years later (1868) the incorporation laws were broadened so as to include "any lawful business."[5] In this year the first approach toward centralization of administration is also noted, namely, in the passage of an act requiring railroad, canal, and certain other corporations to list their property with the territorial auditor when such property was located in more than one county. The auditor was required to certify the value of property so listed to the respective county clerks, such valuations being equalized by the county commissioners.[6]

From 1879 to organization under state government (1889), railroads were taxed on gross earnings.[7] This method of taxing railroads was not in accordance with the state constitution, and the system of corporate taxation established by the first state legislative session, namely, according to the general property tax, with but few changes, is still in force.[8]

Incorporation.

The low flat rate charged for the issuance of charters prior to 1903 bade fair to make South Dakota popular as an incorporating State. Taken in biennial periods, the number of charters issued

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[1] Laws, Dak. Ter., 1862, p. 24.
[2] Ibid., chap. 69.
[3] Ibid., chap. 40.
[4] Ibid., chap. 11.
[5] Ibid., 1867–68, chap. 15, p. 196.
[6] Ibid., 1868–69, chap. 25, p. 269.
[7] Laws, Dak. Ter., 1879, chap. 46; 1883, chap. 99; 1889, chap. 107; see also North Dakota comments.
[8] Laws, S. Dak., 1890, chap. 21, sec. 1.

increased from 263 in 1894–1896 to 2,196 in 1900–1902. A revision of the law in 1903 seems to have checked this increase. This revision, however, and another in 1907, resulted in a greatly increased yield of revenue from charter granting.

The policy of abandoning the low flat rate and substituting a graduated scale based on authorized capitalization and of removing, in part at least, the incentive to seek South Dakota charters, is shown in the following abstract from the 1902 report of the secretary of state:[1]

"The uniform charter fee of $10, as now provided for all corporations organized for profit, is inadequate and unjust. Corporations organized with a small authorized capital stock, which are incorporated by residents of this State for operating and conducting a legitimate business within the borders of our State, thereby developing its resources and adding property to the assessment rolls of the localities where their business is carried on, are required to pay the same charter fee as the concerns of large capitalization, * * * which concerns, with few if any exceptions, never transact a dollar's worth of business within this State nor bring any property into the State that can be assessed for taxation.

"Our laws should be so amended as to establish a graduated charter fee, to be graded upon the authorized capital stock provided for in the articles of incorporation."

Following this recommendation the legislature provided a graduated scale with a minimum fee of $10, applicable when the authorized capital stock was $25,000 or less, and a maximum fee of $40, applicable when it equaled or exceeded $1,000,000. In 1907 the scale of fees was extended so as to place the maximum at $175 when the authorized capital stock equaled or exceeded $5,000,000. The minimum fee remained the same. This law, however, modified requirements as to resident directors by reducing the number from 3 to 1.

The following table shows the estimated number of charters issued, the total revenue, and the average yield per charter, for the period preceding the amendment of 1903, and for the periods preceding and following the amendment of 1907:

Periods.	Number of charters.	Revenue.	Average per charter.
1900–1902	2,196	$21,960	$10.00
1904–1906	2,008	39,357	19.60
1908–1910	1,643	27,931	17.00

[1] Page iii.

As shown by the above table, the 2,196 charters issued during the period just preceding the change from the flat to the graduated rates yielded $21,960, or $10 per charter. During the period just preceding the 1907 increase the 2,008 charters issued yielded $39,357, or $19.60 per charter. During the period following the 1907 increase the charters issued, 1,643 in number, yielded $27,931, or $17 per charter.[1]

Physical Valuation of Railroads.

Following Michigan and Wisconsin, South Dakota, under an act of the 1907 legislature, caused a physical valuation to be made of all railroads operating in the State. An important distinction, however, between the methods employed is that South Dakota in making its appraisal placed no valuation upon the intangible assets of any company, while in the valuations of both Michigan and Wisconsin careful consideration was given to earnings, capital stock values, and all factors entering into the non-physical element of railroad valuation.

The entire railroad property in South Dakota, 3,953 miles, was valued at $91,695,132, or $23,196 per mile.[2] The assessed value would be about one-third of this.

Railroad Assessments.

As shown by the following table, the 2,800 miles of railroads in South Dakota in 1895 were assessed at $3,282 per mile. In 1900 the mileage was practically the same, but the assessment per mile had risen to $4,545, or by 38 per cent. Two hundred and forty-six additional miles of road had been reported by 1905, an increase of 8 per cent. The increase in assessment per mile for the same period was 6 per cent. From 1905 to 1910 mileage increased from 3,048 to 3,932 miles, or 29 per cent, while assessments increased $2,937 per mile, or 60 per cent. The greatest increase was made during the years 1907 and 1908. The 1910 assessment, $7,767 per mile, was approximately one-third the physical valuation found by the Railroad Commission.

[1] Reports of Secretary of State, 1900–1910.

[2] Report of Board of Railroad Commissioners, 1910, p. 33–c.

TOTAL MILEAGE, VALUATION, AND ASSESSMENT PER MILE OF RAILROAD PROPERTY IN SOUTH DAKOTA, FOR THE YEARS 1895, 1900, 1905, AND 1910.[1]

Years.	Mileage.	Total valuation.	Assessment per mile.
1895	2,800	$9,193,247	$3,282.41
1900	2,802	12,741,397	4,545.86
1905	3,048	14,725,659	4,829.84
1910	3,932	30,544,200	7,767.00

Improvements Recommended in Tax System.

NECESSITY FOR GROSS-EARNINGS METHOD. The difficulty of adequately taxing express companies under the present law is the subject of the following comment by the state auditor:

"The assessment of express companies has been the hardest problem for the state board to solve. These companies have very little tangible property in the State, but take a large amount of money out of the State every year in earnings. By taking their earning power into consideration, the board has placed on their property what it considered a fair assessment, and although they pay what I consider a small tax, considering their earnings, the American Express Co. and Wells-Fargo Express Co. have refused to pay their taxes for 1909, and the matter is now in court. It is to be hoped that the tax amendment to be voted upon at the coming election, which is intended to cover such cases, will carry, so that the legislature can place an earnings tax on corporations of this kind." [2]

The constitutional amendment referred to was defeated by the electors of the State in the 1910 election. It proposed that franchises and licenses to do business in the State, gross earnings, and net income should be considered in taxing corporations.

BROADER EQUALIZATION POWERS DESIRED.—The state auditor recommends that the State Board of Assessment and Equalization be given authority to order reassessments of particular classes of property. In support of his recommendation, the auditor states that a number of banks in a certain county listed their undivided profits, while others refused. The board was then compelled to raise the assessment of the stock of all banks within that county. This resulted in an unjust assessment to those banks which had listed their undivided profits.

PERMANENT TAX COMMISSION.—The state treasurer in 1908 recommended the creation of a nonpartisan appointive tax com-

[1] Reports of State Auditor, 1895, p. 201; 1901, p. 214; 1906, p. 275; 1910, p. 113.
[2] Report of State Auditor, 1910, letter of transmittal.

mission which, among other duties, should perform the work of the present State Board of Assessment and Equalization. In this connection the treasurer states:

"Millions of dollars in moneys, credits, and personal property are never assessed and never will bear their just proportion of taxes till a commission of this kind is provided."[1]

Some verification of the treasurer's statement is found in the fact that the state auditor calls attention to the very small amount of moneys and credits reached for taxation.[2]

Bibliography.

The following is a list of the more important publications, in addition to the constitution, the statutes, and the court reports, of value in the study of corporate taxation in South Dakota:

Reports of State Auditor, 1895–1910.
Reports of State Treasurer, 1908, 1910.
Report of Board of Railroad Commissioners, 1910.
Reports of Secretary of State, 1894–1910.

[1] Report of State Treasurer, 1908, p. 3.

[2] Report of State Auditor, 1910, letter of transmittal.

IOWA.

I. GENERAL VIEW.

Chief Features.

First. The absence of special taxes on corporations here considered.

Second. The assessment of state-wide public-service corporations by a central state board.

General Property Tax.

Domestic and foreign corporations of the classes herein treated, except freight car and equipment companies, pay the general property tax locally for state and local purposes. Freight car and equipment companies pay to the State for state purposes a property tax at the average rate of taxation.

The assessment of personal property of domestic corporations not specifically provided for by statute is in theory based on the value of the capital stock of the corporation (supposed actual value and not market price), less exempted property and less assessed value of real estate. While this tax on the excess value of capital stock is not entirely inoperative, it is seldom enforced. Practically all property subject to taxation in Iowa is by statute assessed at 25 per cent of actual value.

Stockholders and Bondholders.

Shares of stock in domestic and foreign corporations whose property is taxed in Iowa are with few exceptions exempt from taxation in the hands of holders. If, however, a domestic corporation actually pays the tax on the excess value of capital stock, it may charge same to the stockholders. Bonds of domestic and foreign corporations and stock in certain corporations are assessed at actual value and taxed to holders, locally for state and local purposes, at the low uniform rate of 5 mills on the dollar.

Foreign Corporations.

Foreign public-service corporations doing a state-wide business and foreign manufacturing and mercantile corporations are taxed like similar domestic corporations. Other foreign corporations, except certain financial corporations, pay the general property tax locally for state and local purposes on tangible property only.

Administration.

The property of steam and interurban railroad, express, telegraph, telephone, freight car, and equipment companies is assessed by the State Executive Council, which is composed of the governor, secretary of state, state auditor, and state treasurer. Other corporations are assessed by local assessors. Taxes in general are collected by county treasurers, but the state gross premiums tax on insurance companies and the state ad valorem tax on freight car and equipment companies are paid to the state treasurer.

Members of the State Executive Council constitute also the State Board of Review.[1]

II. DETAILS AS TO THE CONSTITUTION AND STATUTES.

CONSTITUTION.

It is provided in the constitution that "the property of all corporations for pecuniary profit shall be subject to taxation the same as that of individuals,"[2] and that the laws pertaining to the assessment and collection of taxes for state and local purposes shall be general and of uniform operation throughout the State. The general assembly is prohibited from passing local or special laws for the assessment and collection of taxes for state, county, or road purposes.[3]

STATUTES.[4]

General Property Tax.

Domestic and foreign corporations of the classes herein treated (except freight car and equipment companies) pay locally the general property tax for state and local purposes.

In theory the assessment of personal property of domestic corporations not specifically provided for by statute is based on the value of capital stock of the corporations (supposed actual value and not market price) less exempted property and assessed value

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[1] Sources of revenue in Iowa:

Municipal and local districts.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses; (*d*) fines, fees, etc.

County.—(*a*) General property tax; (*b*) business taxes and licenses; (*c*) fines, fees, etc.

State.—(*a*) General property tax; (*b*) inheritance tax; (*c*) corporation taxes (from corporations other than those treated herein); (*d*) business taxes and licenses; (*e*) fines, fees, etc.

[2] Constitution, 1857, Art. VIII, sec. 2.

[3] Ibid., Art. III, sec. 30.

[4] Except as otherwise indicated, the references herein are to the 1897 edition of the Code and to the 1907 Supplement.

of real estate.[1] In practice the excess over the value of real estate and tangible personalty is seldom reached.[2] Verified annual statements of all necessary facts are required to be furnished by the corporations to the local assessors, and they have the power to fix arbitrarily the value of the capital stock for taxation purposes. This tax is assessed to the corporation at its principal place of business and is paid to the county treasurers by the corporations, which, having paid the tax, have a lien upon the stock and unpaid dividends for reimbursement from the stockholders. This method of assessment is applicable to very few kinds of corporations, as the assessment of transportation, transmission, manufacturing, and mercantile corporations is otherwise provided for by statute. Personal property taxed in this manner is not otherwise assessed.

Real estate of corporations is taxed locally in the same manner as that of individuals.[3] Buildings erected by other than the owners of the real estate upon which they are located are not assessed to the owners of the land as realty, but assessed to the owners of the buildings as personalty.[4] Ferry franchises and toll bridges are considered real property for purposes of taxation.[5]

Moneys and credits, with certain exceptions, are taxable to the owners locally for state and local purposes at the low uniform rate of 5 mills on each dollar of actual value. This tax is collected by the county treasurers and divided between the various funds on the same pro rata basis as other taxes collected in such taxing districts.[6] Property subject to taxation in Iowa is by statute assessed for taxation at 25 per cent of actual value.[7] In practice the assessment is somewhat lower, probably about 18 per cent of actual value.

Steam and Interurban Railroad Companies.

These companies, foreign and domestic, pay the general property tax locally for state and local purposes.

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[1] Code, secs. 1323–1325.

A domestic corporation, having fully paid-up capital stock of $98,000, actually invested $98,000 in real estate. This real estate was assessed at $90,000, which amount was deducted from the capital stock valuation, $98,000, leaving the corporate excess to be assessed at $8,000. Assessment held valid. Valley Inv. Co. *v.* Board of Review, 152 Iowa, 84 (1911).

[2] Interview with state tax officials, Sept. 12–14, 1911.

[3] Code, sec. 1327.

[4] Ibid., sec. 1350.

[5] Ibid., sec. 1308.

[6] Laws, 1911, chap. 63.

[7] Code Supplement, sec. 1305. Actual value of property is the market value in the ordinary course of trade.

Railroad property used in operation is in general assessed by the State Executive Council.[1] Real estate not used exclusively in operation, railway bridges crossing the Mississippi and Missouri Rivers, and grain elevators, are assessed locally.[2]

The Executive Council does not make public the exact method used in determining valuations, but in general assessments are based on verified statements from railroads showing detailed data with respect to railroad values and earnings. Intangible values are, to some extent, determined by a consideration of gross receipts.

Apportionment to counties through which the roads pass is on the basis of main-track mileage.[3] A similar apportionment is made by county boards of supervisors to minor taxing districts.[4]

The value of rolling stock used partly without the State is determined principally upon the proportion which the railroad's business within the State bears to its entire business.[5] In other States such values are usually based on a proportion of mileage instead of a proportion of business.

Passenger-Car Companies.

Operating equipment belonging to these companies is taxed to the railroad over which they operate. The average number of sleeping, parlor, and other passenger cars used in the State during the year is valued by the Executive Council. The valuation is based upon that portion of the entire value which the number of miles operated in the State bears to the aggregate number of miles operated. It is then added to and assessed with the value of that part of the railroad over which the cars are run.[6] The

[1] Code, sec. 1336; Code Supplement, secs. 1333b, 1334.

The tax here provided for is on real and personal property without discrimination, and therefore a sewer district tax which can only be enforced against real property within the sewer district is not enforcible against the real property of a railroad company which is included in its general assessment for taxation. Chicago, M. & St. P. Ry. Co. *v.* Phillips, 111 Iowa, 377 (1900).

An interurban line which includes a city street car system may be taxed by the Executive Council as a unit. Waterloo & C. F. R. T. Co. *v.* Board of Supervisors, 131 Iowa, 237 (1906); Cedar Rapids & M. C. Ry. Co. *v.* Cummins, 125 Iowa, 430 (1904).

[2] Code, sec. 1342.

The taxation of railroad property is subject to the rule that "property can not be taxed until authority therefor be conferred by the legislature, and the manner of imposing taxes prescribed by law must be followed; no other way of taxation can be lawfully pursued." C., R. I. & P. Ry. Co. *v.* City of Davenport, 51 Iowa, 451 (1879).

[3] Code Supplement, sec. 1337.

[4] Code, secs. 1338, 1339.

[5] Code, sec. 1336.

[6] Code, sec. 1341.

railroad companies pay this tax, but they are reimbursed by the companies owning the cars.

Freight-Car and Equipment Companies.

Domestic and foreign freight-car and equipment companies pay to the State for state purposes a property tax at the average rate of taxation [1] on cars necessary to carry on their business in the State.[2] This tax is in lieu of other taxation upon such property. Assessment of cars is by the Executive Council. Real estate and permanently located personal property are subject to the general property tax, assessed locally for state and local purposes. The value of any cars which may be assessed locally is deducted by the Executive Council in assessing the state tax.

State assessment is based upon information furnished by the companies in annual reports to the Executive Council and upon any other information available.[3] The Executive Council also determines the average rate.

Telegraph and Telephone Companies.

Foreign and domestic telegraph and telephone companies pay locally the general property tax for state and local purposes on tangible and intangible property.

Property used in the telegraph and telephone business is assessed by the Executive Council. Its method of determining values could not be ascertained.[4] In general, however, assessments are based chiefly upon annual reports filed with the state auditor. These reports contain details with respect to property and business, both within and without the State, and the statute specifically provides that the valuation of all property, including franchises and the use of the property in connection with lines outside of the State, shall be considered in assessing these companies. The assessable value having been determined, it is reduced to a valuation per mile of line, and apportionment on this basis is made to the counties and minor local taxing districts.[5]

Property of telegraph and telephone companies not used exclusively in the telegraph or telephone business is subject to assessment and taxation by the local taxing authorities upon the same basis as that of individuals.[6]

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[1] The average state, county, and local tax throughout the State combined.

[2] Code Supplement, secs. 1342d, 1342e.

[3] Code Supplement, secs. 1342b–1342e.

[4] Interview with secretary of the Executive Council, Sept. 12, 1911.

[5] Code Supplement, secs. 1330–1330d.

[6] Code Supplement, sec. 1330e.

Telegraph lines owned and operated by railroad companies exclusively for their own business are taxed with other railroad property and are exempt from further taxation.[1]

Express Companies.

Domestic and foreign express companies pay locally the general property tax for state and local purposes. Property used in the business within the State is valued by the Executive Council; and franchise, earnings, and all other factors which influence value are given consideration. The assessed valuation is then apportioned upon the mileage basis among the localities through which the routes pass and the general property tax applied by the localities.[2] The assessment is based upon information furnished by the company in annual reports to the Executive Council and any other information available.[3] Real and personal property of express companies not used in the business is subject to assessment and taxation by the local taxing authorities in the same manner as the property of individuals.[4]

Street-Railway, Water, Gas, and Electric Companies.

These companies, whether domestic or foreign, pay the general property tax locally for state and local purposes.[5] Assessment is by local officials. Real estate, including lands, buildings, machinery, tracks, poles, wires, etc., is assessed in the taxing district where situated. Personal property, including rolling stock, is assessed in the taxing district where such property is usually kept. In theory domestic companies of these classes are taxable also, under the general property tax, on the excess value of capital stock over tangible property,[5] but in practice this excess is seldom taxed.

Manufacturing and Mercantile Corporations.

Domestic and foreign manufacturing and mercantile companies pay the general property tax locally for state and local purposes. Raw material of manufacturing corporations is assessed at the average taxable value of such stock on hand during the preceding year. Machinery used in manufacture is, for taxation purposes, regarded as real estate, and this, with all other real estate, is separately assessed.[6]

Lands, mills, and machinery, used in the manufacture of sugar from beets grown in Iowa, are exempt from taxation until 1917.[7]

[1] Code, sec. 1332.
[2] Code Supplement, secs. 1346e–1346g.
[3] Code Supplement, secs. 1346a, 1346d.
[4] Code Supplement, secs. 1346d, 1346g.
[5] Code, sec. 1343.
[6] Code, sec. 1319.
[7] Code Supplement, sec. 1304a.

Mercantile corporations are assessed on stocks of merchandise at the average values of such stocks during the preceding year.[1]

Stockholders and Bondholders.

Shares of stock in domestic and foreign corporations whose property is taxed in Iowa are, with few exceptions, exempt from taxation in the hands of holders. Domestic corporations required to pay the general property tax on excess of value of capital stock over value of real estate may charge same to the stockholders.[2] This excess as already stated is seldom assessed.

Bonds of domestic and foreign corporations and stock in certain corporations[3] are taxed locally to the holders for state and local purposes at the low uniform rate of 5 mills on each dollar of actual value.[4]

Foreign Corporations.

Foreign railroad, telegraph, telephone, express, manufacturing, mercantile, freight-car, and equipment companies are taxed in the same manner as similar domestic corporations. Other foreign corporations of the classes herein treated pay locally the general property tax for state and local purposes on tangible property only.

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 26 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED JUNE 30, 1910.[5]

Total state receipts, all sources		$4,347,528.22
State taxes from corporations:		
Railroads[6]	$251,426.76	
Sleeping cars—paid by railroads[6]	990.56	
Telegraph and telephone companies[6]	14,120.53	
Express companies[6]	1,432.74	
Freight line and equipment companies	8,453.01	
Insurance companies	399,177.20	
Bank fees	18,966.07	
Building and loan associations	258.15	
Corporation fees	168,471.35	
Total state taxes from corporations		863,296.37

[1] Code, sec. 1318.

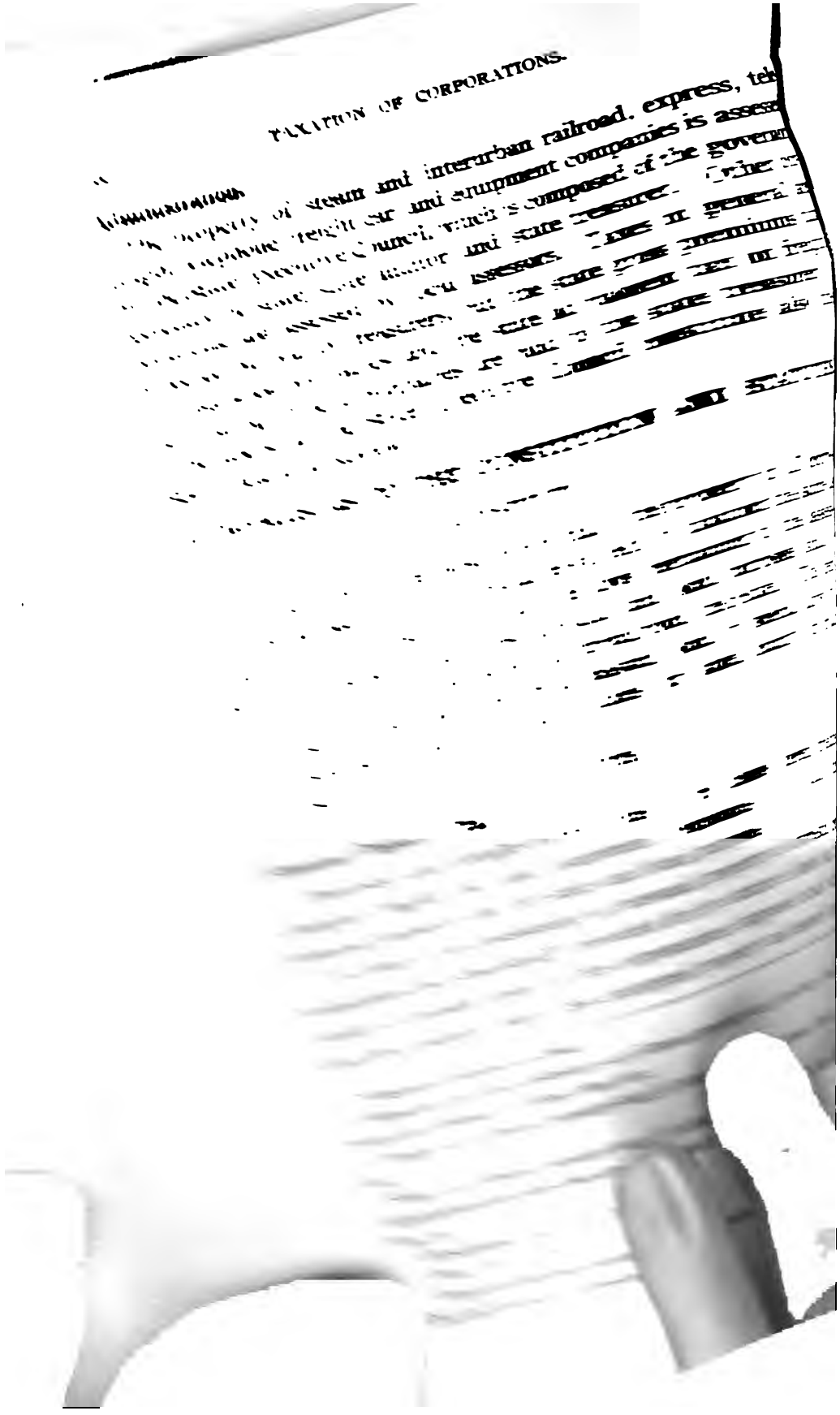
[2] Code, sec. 1323.

[3] Shares of stock in foreign corporations, unless specifically exempt, are taxable to holders. Morrill *v.* Bentley, 150 Iowa, 677 (1911). Stock in foreign corporations is taxable to holders regardless of its assessment in the foreign State. Judy *v.* Beckwith, 137 Iowa, 24 (1908).

[4] Laws, 1911, chap. 63.

[5] Reports of State Auditor, Treasurer, and Executive Council, 1910.

[6] Estimated by applying the state rate of 3.9 mills to the assessed values of the property. Report of State Auditor, 1910, p. 150.



vision pertaining to corporate taxation was the requirement that every person should return with his assessable personal property the value of any interest in the capital stock, undivided profits, or means of every company, incorporated or unincorporated, owned by him.[1] This law remained unchanged until the adoption of the 1851 code, which introduced much new legislation pertaining to taxation. It contained a provision for the taxation of stock of foreign and domestic banks; ferry franchises—important in the days preceding railroads—were henceforth to be taxed as realty.[2] The principal accounting officers of corporations were required to report and to list their property to the assessors.[3] Yet the most radical changes affected railroad, construction, and insurance companies.

The property of corporations or companies constructing canals, railways, and similar improvements was taxed through the shares of the stockholders. The shares of nonresident shareholders were assessable in the county in which was either terminus of the line. The company was required to report to the assessor the names and residences of such nonresident shareholders, and the number, the par, and the market value of shares held by each. In case of refusal to certify the list, the shares were assessed to the corporation. The county first listing was entitled to levy and collect the taxes on such nonresident stockholders.[4] Certain foreign insurance companies were assessed at 1 per cent for state purposes and at 1 per cent for county purposes on the premiums received in the county. The agents were required to list the receipts to the local assessors and were made personally responsible for the payment of the tax.[5]

The development of the system of corporate taxation since the adoption of the code of 1851 has been slow and rather irregular. One class of corporations and then another has received attention, and the methods applied have been widely different. In 1860 railroad property was taxed in the same manner as that of individuals.[6] In 1862 a gross receipts tax of 1 per cent was imposed. It was collected by the State, which retained half, and the remainder was distributed to the several counties through which the road passed. This was in lieu of all other taxes on the roadbed, track, rolling stock, and buildings necessary for operating the road, but

[1] Laws, 1846–1847, p. 137.
[2] Code of 1851, Title VI, sec. 456.
[3] Ibid., sec. 458.
[4] Ibid., sec. 462.
[5] Ibid., sec. 464.
[6] Revision of 1860, chap. 45, sec. 712.

The following abstracts taken from the statement of the commission's conclusions presented to the 1909 legislature illustrate the unsatisfactory character of the data obtained from corporations:[1]

The Great Northern Railroad reported that it had 690.63 miles of main line and 853.42 miles of branch lines, which the company valued at $31,000 and $20,000 per mile, respectively.

The Northern Pacific Co. estimated the cost per mile of reproducing the 1,462.53 miles of its main and branch lines and sidings in the State at $40,794 per mile.

The Chicago & North Western estimated its 14.28 miles at $17,946 per mile.

The Chicago, Milwaukee & St. Paul reported that it did not know the value of its 153.31 miles.

The Farmers' Grain & Shipping Co., with 53 miles, reported a cost of $10,627.48 a mile.

The Minneapolis, St. Paul & Sault Ste. Marie, with a mileage of 1,083.41, did not value its lines.

The Great Northern Express Co. operated over 1,562.59 miles; has personal property to the value of $15,092; its earnings on local business in 1907 were $96,801.86, and cost of operating, $95,161.68.

The Northern Express Co. operated over 1,164 miles, and its personal property was valued at $10,613.60. It did not give its earnings.

The United States Express Co. mileage was 256.22, value of personal property $485.85, gross earnings in 1907 on local business $41,186.05, and operating expenses $41,576.86.

The Western Express Co. reported a mileage of 1,171.82, value of personal property $1,799.04. No earnings in the State were given.

Bibliography.

The following is a list of the more important publications, in addition to the constitution, the statutes, and the court reports, of value in the study of corporate taxation in North Dakota:

Messages of the Governor, 1901, 1907, 1909, and 1911.
House Journals, 1901, 1909.
Report of the State Treasurer, 1910.
Proceedings of the State Board of Equalization, 1908, 1909, 1910.
North Dakota State Tax Association Bulletin No. 1, December, 1910.
State and Local Taxation, Addresses and Proceedings, International Conference, 1907–1910.

[1] House Journal, 1909, p. 1023, et seq.

SOUTH DAKOTA.

I. GENERAL VIEW.

Chief Features.

First. The broad application of the general property tax.

Second. The assessment of practically all state-wide public-service corporations by a central state board.

Third. The taxation of the property of certain public-service corporations at the average rate of taxation.

General Property Tax.

Corporations, domestic and foreign, are subject to the general property tax only. Assessment of operating property of railroad, express, telegraph, telephone, and sleeping car companies is by the State Board of Assessment and Equalization. The tax on railroad and telephone companies is paid locally for state and local purposes at the general property tax rates. The tax on telegraph, express, and sleeping car companies is paid to the State for state and local purposes at the average of state, county, and local rates.

Street railway, road, bridge, gas, water, mercantile, and manufacturing corporations pay the general property tax locally for state and local purposes. Assessment is by local officials.

All property is assessed at about one-third the full value.

Stockholders and Bondholders.

When the property of the corporation is taxed in South Dakota the shares are not taxed to the holders. Bonds of foreign and domestic corporations are taxable in the hands of the holders.

Foreign Corporations.

Foreign corporations of the classes herein considered are taxed in practically the same manner as similar domestic corporations.

Administration.

The State Board of Assessment and Equalization, consisting of the governor, state auditor, secretary of state, state treasurer, and commissioner of school and public lands, assesses annually the property of domestic and foreign railroad, telegraph, telephone, express, and sleeping car companies. It acts as a state

equalizing board as between counties, and determines the state rate of taxation.

Payment under the general property tax, except in the case of corporations subject to the average rate of taxation, is made to county treasurers. Taxes assessed at the average rate are paid to the state treasurer.[1]

II. DETAILS AS TO THE CONSTITUTION AND STATUTES.

CONSTITUTION.

The constitution requires that the legislature shall provide for an annual tax to defray ordinary expenses,[2] and that taxation shall be uniform on all real and personal property, so that every person and corporation shall pay a tax in proportion to the value of property owned.

The legislature is required to "provide by general law for the assessing and levying of taxes on all corporation property, as near as may be by the same methods as are provided for assessing and levying of taxes on individual property."[3]

The power to tax corporations and corporate property can not be surrendered or suspended by any contract or grant to which the State is a party.[4]

STATUTES.[5]

General Property Tax.

Corporations, domestic and foreign, except as otherwise provided, pay locally the general property tax for state and local purposes.[6] In theory the excess of aggregate market value[7] of shares of stock over tangible corporate property is taxable under

[1] Sources of revenue in South Dakota:

Municipal and local districts.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses; (*d*) fines, fees, etc.

County.—(*a*) General property tax; (*b*) corporation taxes (from corporations other than those treated herein); (*c*) poll tax; (*d*) business taxes and licenses; (*e*) fines, fees, etc.

State.—(*a*) General property tax; (*b*) corporation taxes (from corporations other than those treated herein); (*c*) business taxes and licenses; (*d*) fines, fees, etc.

[2] Constitution, 1889, Art. XI, sec. 1.

[3] Ibid., Art. XI, sec. 2.

[4] Ibid., Art. XI, sec. 3.

[5] Except as otherwise indicated, the references herein are to the Revised Political Code, 1903.

[6] Code, secs. 2053–2059. A provision for the deduction of debts when listing property for taxation was declared unconstitutional. Advisory opinion of supreme court rendered to governor. 4 S. Dak., 6 (1893).

[7] Code, sec. 2079.

the general property tax, but in practice this excess is not reached.[1] The principal place of business is made the situs of personal property for taxation purposes.[2]

The law provides that assessment of property in general shall be at full value,[3] but in practice property is usually assessed at about one-third of full value.[1]

Improvements made by others than owners upon land belonging to corporations, whose property is assessed in a manner different from other property, are not taxed to the owners of the land as realty, but are taxed to the owners of the improvements as personalty.[4]

Railroads.

Domestic and foreign steam railroads pay the general property tax locally for state and local purposes.[5] Property used in operation, namely, rolling stock, right of way, roadbeds, bridges, culverts, depots, etc., is assessed by the State Board of Assessment and Equalization.

The state board assesses separately for main line and branches the value per mile of property of each railroad company situated outside the incorporated cities and towns. This valuation is apportioned on the mileage basis among the counties through which the lines pass. The state board also assesses the property of railroads located in incorporated cities and towns. With this assessment is included a mileage-proportion valuation of rolling stock.

The assessments are based on reports from the railroad companies, showing mileage, valuation per mile, value of rolling stock, and numerous details with respect to the value of all operating property.[6] One-third of this valuation is assessed and certified by the state board to the counties and incorporated cities and towns, and is there taxed for both state and local purposes. Franchise is not assessed to railroads.

Property not used in operation is subject to local assessment.[7]

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[1] Interview with state auditor, Aug. 28, 1911.

[2] Code, sec. 2059.

[3] Code, secs. 2052 2085,.

[4] Code, sec. 2055.

[5] Laws, 1907, chap. 64, secs. 1–10.

[6] The report of the Board of Railroad Commissioners is made too late for use in a current year's assessment, but reports of previous years are sometimes consulted by the State Board of Assessment and Equalization in assessing railroad property. Interview with state auditor, Aug. 28, 1911.

[7] This rule extends to property not actually necessary to present operation, held for future use in railroad business. St. P., M. & M. Ry. Co. *v.* Howard, 23 S. Dak., 34 (1909).

Express, Car, and Telegraph Companies.

Domestic and foreign companies of these classes pay to the State, for state and local purposes, a property tax [1] at the average rate of taxation.[2] The assessment includes only property used in the business, and the tax is in lieu of all other taxes on such property.

Express companies are assessed on the value of their tangible and intangible property. Assessment by the State Board of Assessment and Equalization is based on reports showing, among other items, total value of all property and total gross earnings. The method of determining the value of intangible property could not be ascertained,[3] but the following illustration taken from records of the state auditor shows that intangible values of express companies exceed, by a considerable amount, the value of tangible property as reported to the board.[4] Thus: "The Wells-Fargo Express Co. reported the value of its property at $19,891. They were assessed at $333,358, which last figure is supposed to be one-third of the true value."

Sleeping car companies are also assessed on the value of tangible and intangible property. The valuation of tangible property is based on the value of the average number of cars operated in the State. As in other instances, the method of determining the value of intangible property could not be definitely ascertained, but another illustration from the records of the auditor shows that the value of tangible property of a certain sleeping car company was reported at $40,000 and the gross earnings at $22,000. This company was assessed at $50,000. Freight-car companies are not taxed.[5]

The assessment of telegraph companies is accomplished in practically the same manner, namely, upon the reported value of

[1] Laws, 1907, chap. 64, secs. 12–23; Laws, 1911, chap. 248.

[2] The average state, county, and local taxes throughout the State combined. Laws, 1907, chap. 64, sec. 17.

[3] Interview with state auditor, Aug. 28, 1911.

The statute requires the State Board of Assessment and Equalization to value and assess property of express companies and their valuation and assessment is final. State ex rel. American Express Co. *v.* State Board of Assessment and Equalization, 3 S. Dak., 338 (1892).

[4] The constitutionality of this method of assessment is now being tried in court. Interview with state auditor, Aug. 28, 1911. See also Comments under subheading "Improvements Recommended in Tax System."

[5] Interview with state auditor, Aug. 28, 1911.

the tangible property plus an amount which more or less approximates the annual gross earnings.

Taxes on express, telegraph, and sleeping car companies are paid to the state treasurer, who retains that part of the tax which is represented by the state rate, and the remainder is distributed among the counties and incorporated cities and towns through which the lines or routes pass, in that proportion which the value of property of said companies in each locality bears to the entire value of such property in the State.[1]

Telephone Companies.

Domestic and foreign telephone companies pay the general property tax locally for state and local purposes.[2] Telephone property used in operation is for purposes of assessment classified as toll lines, rural lines, and property located in incorporated cities or towns.

Assessment of toll and rural lines by the state board is based on reports from telephone companies showing, by counties, the average value per mile of wire and poles, the number of instruments and location of exchanges used outside of incorporated cities and towns for toll and rural-line service. These reports make a heavy allowance for depreciation.[3]

From these data the state board compiles a table of equalized values per mile which under the classifications "poles" and "wire" includes the various items essential to operation.[3] Property of telephone companies located within incorporated cities and towns and used in operation is also assessed by the state board. Exchanges are assessed on the basis of the number of telephones operated from each exchange.[4] Real estate, buildings, etc., used in operation are separately assessed by the state board.

Assessment of toll and rural lines is apportioned on a mileage basis among the counties through which the lines extend, and assessment of exchanges, lines, etc., located within incorporated

[1] Interview with state auditor, Aug. 28, 1911.

[2] Laws, 1911, chap. 84.

[3] Interview with state auditor, Aug. 28, 1911.

For 1911 the equalized valuations were: For toll lines—poles, $25 per mile of route; copper wire, $10 per mile of wire; iron wire, $4 per mile of wire. For rural lines—20 poles per mile, $10 per mile of route; 25 poles per mile, $15 per mile of route; iron wire, $4 per mile; copper wire, $10 per mile.

[4] The 1911 assessment per telephone was as follows: 50 telephones or less, $10; 50 to 100 telephones, $12.50; 100 to 200, $15; 200 to 300, $17.50; 300 or more, $20. Interview with state auditor, Aug. 28, 1911.

cities or towns is apportioned to these municipalities.[1] Property not necessary to the operation of telephone companies is assessed locally.[2]

Street Railway, Road, and Bridge Companies.

Domestic and foreign companies of these classes pay the general property tax locally for state and local purposes. In theory the excess of aggregate market value[3] of shares of stock over tangible corporate property is taxable under the general property tax, but in practice this excess is not assessed. The principal place of business is made the situs of personal property for taxation purposes, and tracks, roads, and bridges are taxed as personal property.[4]

Gas and Water Companies.

These companies, whether domestic or foreign, pay the general property tax, and are assessed in the same manner as street railway, road, and bridge companies. Personal property of gas and water companies, which by statute includes mains and pipes, is, however, listed where located.[5]

Manufacturing, Mercantile, and Miscellaneous Corporations.

Domestic and foreign corporations of these classes pay locally the general property tax for state and local purposes. In theory the excess of aggregate market value[3] of shares of stock over tangible corporate property is taxable under the general property tax, but in practice this excess is not taxed.

Stockholders and Bondholders.

Shares of stock in corporations, domestic and foreign, whose property is taxed in South Dakota are not taxed in the hands of holders. Shares of stock in other corporations and bonds of domestic and foreign corporations are taxable to holders.[6]

Foreign Corporations.

Foreign corporations of the classes herein considered are taxed in practically the same manner as similar domestic corporations.

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[1] Laws, 1911, chap. 84.
[2] Code, secs. 2057, 2058.
[3] Ibid., sec. 2079.
[4] Ibid., sec. 2062.
[5] Ibid., sec. 2061.
[6] Ibid., sec. 2058.

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 18 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED JUNE 30, 1910.[1]

Total state receipts, all sources		$3,182,913.87
State taxes from corporations:		
Railroad companies[2]	$122,000.40	
Telephone companies[2]	3,868.54	
Telegraph companies[2]	1,292.87	
Express companies[2]	1,702.06	
Car companies[2]	168.00	
Insurance companies	117,337.11	
Fire marshal tax	7,715.98	
Corporation fees[3]	19,691.25	
Total state taxes from corporations		273,776.21
Other taxes:		
Inheritance tax	4,143.28	
Dairy tax	1,213.02	
Bee tax	35.67	
Hotel licenses	2,296.00	
Hunters' licenses	13,659.35	
Opera house licenses	260.00	
General property tax[4]	1,242,422.69	
Total state taxes not from corporations		1,264,030.01
Total taxes for state purposes, all sources		1,537,806.22
Receipts from sources other than taxes:		
United States Government Soldiers' Home aid	20,060.75	
Land sales	667,388.86	
Five per cent sales of Government lands	40,567.34	
Lease of lands	287,122.05	
Interest on deposits	15,549.49	
Miscellaneous interest	374,155.37	
Miscellaneous receipts	240,263.79	
Total receipts from sources other than taxes		1,645,107.65
Total state receipts, all sources		3,182,913.87

[1] Reports of State Treasurer, State Auditor, and Secretary of State.

[2] Estimated by applying the state rate of 4 mills to the assessed values as shown in Report of State Auditor, 1910, p. 113.

[3] Estimated.

[4] Part of this comes from local taxation of corporations, but it is impossible practically to ascertain the amount thus received, except the amounts above estimated, which are not included in this item.

Steam Railroads.

Domestic and foreign railroads pay locally the general property tax for state and local purposes.[1] In addition, they pay the small graduated capital stock tax based upon the par value of subscribed stock.

The property of railroads for taxation purposes may be classified as follows:

(*a*) Rolling stock, and intangible personal property, including moneys, credits, and franchises. The value of this property is assessed by the state board and is apportioned to the counties, cities, and minor local districts on the mileage basis.[2]

(*b*) Right of way, tracks, stations, materials, and other tangible property located within the right of way and within station grounds. This property is also assessed by the state board. It is apportioned in the same manner as class *a* property,[3] except that this apportionment does not extend to cities and incorporated villages. City and village[4] property of class *b* is assessed locally[5] but is subject to equalization by the state board.

The object of thus separately providing for city and village taxation was to give such municipalities a more adequate return for their extra police, fire, and other protection of railroad property (especially of the valuable railroad terminals) in the cities and villages, than could be obtained under the usual unit rule apportionment plan.[6]

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[1] The taxable property includes "railroad service." Cobbey's Stats., secs. 10985, 10986.

The leasehold right of a railroad to use part of the track of another railroad is taxable as "railroad service," even though the trackage so leased had already been taxed to the railroad owning it. Interview with W. T. Thompson, formerly attorney general of Nebraska, May 23, 1911.

A railroad company need not own a track, right of way, or terminal in Nebraska to be subject to taxation for whatever property it owns, including its franchise to do business in the State. Opinions of Attorney General, 1905–6, p. 164.

A railroad is taxable on an unused right of way. Opinions of Attorney General, 1909–10, p. 71.

[2] Cobbey's Stats., secs. 10699, 10983, 10985, 10988, 10989, 10995.

[3] Ibid., secs. 10983, 10985, 10988.

Manner of valuing railroad main track and branches discussed in case of State ex rel. *v.* Sheldon, 79 Nebr., 455 (1907).

A railroad bridge across a navigable river owned, used, and operated by a railroad company as a part of its line of road is assessable for taxation by the state board and not by local assessors. C., B. & Q. R. R. Co. *v.* Richardson County, 61 Nebr., 519 (1901).

[4] A village is an incorporated town of not less than 200 nor more than 1,500 inhabitants. Cobbey's Stats., sec. 8881.

[5] Cobbey's Stats., secs. 10687, 10688 (6), 10697.

[6] Interview with W. T. Thompson, formerly attorney general of Nebraska, May 23, 1911.

(c) All real and personal property outside of both the right of way and station grounds, including machine repair shops, general office buildings, and storehouses. Property of this class is assessed locally for state and local purposes.[1]

All railroads situated within the State are required by statute to furnish the state board, county clerks, and city and village authorities annual reports showing certain detailed information.[2] Statements of the valuations made and corrected by the state board are sent to the clerk of each county entitled thereto, to be used in extending county, city, and other local taxes on railroad property located therein.[3]

Express, Telegraph, Telephone, and Pipe Line Companies.

These companies, whether domestic or foreign, pay the general property tax, assessed and collected locally for state and local purposes. The gross receipts are considered in arriving at the intangible or franchise values.[4] In addition, they pay the small graduated capital stock tax on the par value of subscribed stock.

[1] Cobbey's Stats., secs. 10984, 10698.

Repair shops, storehouses, and other buildings of a railroad situated on the right of way should be assessed by local assessors, while the right of way and depot grounds should be assessed by the state board.

What constitutes right of way and depot grounds is to be determined by state board. Opinions of Attorney General, 1905–6, p. 173.

Elevators situated on the right of way of a railroad are subject to assessment by local authorities and not by state board. That they may be necessary for successful operation of the road is immaterial, and a voluntary listing to the auditor and payment of tax is no defense to assessment by county. Adams County *v.* Kansas City & O. Railroad Co., 71 Nebr., 549 (1904).

[2] Cobbey's Stats., secs. 10691, 10692, 10698, 10986, 10989.

These various reports are not conclusive as to value of property. Ibid., secs. 10697, 10988.

[3] Cobbey's Stats., secs. 10701, 10992–10994.

[4] Ibid, secs. 10977, 10979, 10981, 11031, 11033.

The true value of the tangible property of an express, telephone, or telegraph company should be ascertained from a consideration of its gross receipts for the prior year, and its franchise or right to carry on its business, and by treating it as a going concern. Nebraska Tel. Co. *v.* Hall County, 75 Nebr., 405 (1906).

The word "franchise" as here used, is a generic term, and includes all rights and privileges granted to or exercised by a corporation in the express, telegraph, or telephone business in Nebraska. "Franchise value means the value of the intangible property." W. U. Tel. Co. *v.* City of Omaha, 73 Nebr., 527, 539 (1905).

The amount of gross receipts taken in by express, telephone, and telegraph companies during the year prior to the time of assessment, taken alone, is not the proper method of ascertaining the value of the franchise. Gross receipts may properly be considered as an item in estimating the value of the franchise, but not as the value of the franchise. (Ibid.)

In assessing the property of a telegraph company having property in more than one State, the value of the whole property as an entirety should be considered, and the

Real estate belonging to these classes of companies is assessed in the same manner as that of individuals. Both the value of personal property and the amount of gross receipts for the preceding year are, except for the city of Lincoln, reported to county or local assessors in the counties through which the routes pass. The county and state boards of equalization and assessment equalize and levy, through the county clerks, the tax for state and local purposes. These reports are verified by the reporting companies and their books are subject to examination by the assessors.[1] By reason of provisions contained in the charter of the city of Lincoln assessment for city purposes is made by the city assessor and reviewed by a board composed of certain members of the city council.

The degree of consideration given to the reported gross receipts in determining the intangible or franchise value depends upon the local assessor. In the city of Lincoln the reported gross receipts are added to the value of personal property. The total is equalized, assessed, and taxed in the same manner as other property.[2]

Car Companies.

Domestic and foreign car and freight line companies pay locally the general property tax, for state and local purposes. In addition, they pay the small graduated capital stock tax on the par value of subscribed stock.

Parlor and sleeping car companies are assessed on that proportion of the value of their cars operated in the State during the

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relation which the value of the property in the taxing district bears to the value of the entire property should also be considered. In arriving at the value of the property of a telegraph company in a taxing district, the total gross and net receipts of the system as a whole, as well as in the particular districts, may be considered, and so also may the amount of company's stocks and bonds and the market value thereof. W. U. Tel. Co. *v.* Dodge County, 80 Nebr., 18 (1907).

Franchise or right to occupy the streets of a city by a telephone company is not identical with the business or occupation of the company. An occupation tax measured by a percentage of the gross earnings of the telephone company, whose franchise is also taxed in connection with its tangible property according to its value as a going concern, does not tax the same property twice. Nebraska Tel. Co. *v.* City of Lincoln, 82 Nebr., 59 (1908); Ibid., 84 Nebr., 325 (1909); approved in Lincoln Traction Co. *v.* City of Lincoln, 84 Nebr., 327 (1909).

[1] Cobbey's Stats., secs. 10976, 10980.

Pipe line companies report to assessors of minor local districts.

If a telephone company refuse to allow inspection of books, the local assessor should value property from best information obtainable. The provision permitting the assessor to add 50 per cent is of doubtful validity. Opinions of Attorney General, 1905–6, p. 168.

[2] Interview with city assessor, Lincoln, Nebr., Sept. 2, 1911.

year which the main-track mileage traveled by said cars within the State bears to the entire main-track mileage covered by said cars.[1] Freight-line companies [2] are taxed on the value of the number of cars necessary to make the total annual mileage covered by such cars in Nebraska.[3]

Assessment by the state board is based on reports from companies,[4] which are verified by somewhat similar reports from the railroad companies over whose lines the cars pass.

These assessments are apportioned by the state board, according to railroad main-track [5] mileage, among the several counties traversed by the railways carrying the cars. They are then reapportioned by county clerks to cities, villages, and smaller taxing districts.[6]

Property, other than cars, if any, is assessed locally where situated.[7]

Public Utility Companies.

Domestic and foreign street railway, water, electric, gas, and other lighting companies are subject to the general property tax

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[1] Cobbey's Stats., sec. 11002.

[2] Including stock, furniture, refrigerator, fruit, poultry, tank, etc., cars, not leased, owned, or operated by a railroad company.

[3] Cobbey's Stats., secs. 10996, 10998, 10699.

To illustrate the procedure, in figuring the number of cars, other than parlor and sleeping cars, data from the 1904 report of a certain car line are here given. This company reported that its fruit cars had traveled in Nebraska during the previous year 7,060,306 miles, and that the travel all over the country of each one of such cars was 275 miles each day. The travel, then, in a year of such one car would be 100,375 miles; and since the aggregate mileage of all the cars of this class in the State during the year had been 7,060,306 miles, the number of cars required to make this aggregate mileage was taken as the result obtained by dividing 7,060,306 by 100,375, giving about 70 cars. The state board valued each fruit car at $450, and the taxable value, then, was easily obtained.

[4] Cobbey's Stats., secs. 10694, 10996, 10997, 10998, 11001, 11002.

The reports for parlor and sleeping cars show: (1) The number and value of cars of each class used in transacting business upon all the railroad lines running into or through the State; (2) the mileage of railroad track in the State and counties over which the cars were used; (3) the total value of such cars due to the State, according to proportionate railroad main-track mileage; and (4) the value per mile.

Reports for cars other than parlor and sleeping cars show: (1) The aggregate number of miles made by the cars on the several lines of railroad in Nebraska during the year; (2) the average daily travel everywhere of a car of a particular class; and (3) the total number of cars owned.

[5] Cobbey's Stats., secs. 10998, 11002.

[6] Ibid., secs. 10701, 10995, 10998.

[7] Ibid., secs. 10687, 10697, 10911.

assessed and paid locally for state and local purposes.[1] In addition, they pay the small graduated capital-stock tax on the par value of subscribed stock.

Emphasis is laid by the law on the assessment of the franchises of such companies;[1] and this franchise value includes the value of the intangible property.[2] Annual sworn reports are made by the companies to the local assessors.[3]

Manufacturing and Mercantile Corporations.

The property of such corporations, domestic and foreign, is assessed locally under the general property tax, for state and local purposes.[4] In addition they pay the small annual graduated capital stock tax on the par value of subscribed capital stock.

The taxable personal property is listed by each corporation.[5] The assessor may inspect the books, stock inventories, and insurance policies of a merchant or manufacturer to determine the value of his stock on hand.[6] The property of manufacturers in the hands of an agent is listed as merchandise,[5] where the business of the agent is carried on.[7] The personal property of business corporations is assessed where the principal office or place of business is located.[8]

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[1] Cobbey's Stats., secs. 10967, 10969.

The value of the franchise is determined principally from the amount of yearly earnings and dividends and from the kind of charter the public utility company may have from the State or city, taking into consideration what the company has paid for its franchise, and whether said franchise is permanent or temporary. Interview with W. T. Thompson, formerly attorney general of Nebraska, May 23, 1911.

Taxation of franchises must be by valuation and in proportion to value. Any rule or method adopted by the legislature to ascertain such value, if the same is fair and just in its operation, will be upheld, but the legislature can not establish an arbitrary rule which has no relation to the value. W. U. Tel. Co. *v.* Omaha, 73 Nebr., 527 (1905).

[2] W. U. Tel. Co. *v.* Omaha, 73 Nebr., 532 (1905).

[3] Cobbey's Stats., secs. 10967, 10968. Such reports give data as to the following items: (1) Name and location of company; (2) the amount and value of capital stock; (3) value of franchise granted by State or city; (4) amount of indebtedness except indebtedness for current expenses; (5) amount and rate of yearly dividend; (6) amount of gross and net earnings and profit.

[4] Cobbey's Stats., secs. 10911, 10927, 10928.

[5] Ibid., sec. 10927.

Ordinary corporations, such as are purely domestic and which are not covered by any specific provision of the revenue act designating any particular method with respect to their assessment, should be assessed under the general provisions of the act; that is to say, all their property should be listed, including moneys, credits, and all other items of property owned by them on the 1st day of April. Opinions of Attorney General, 1905–6, p. 81.

[6] Cobbey's Stats., sec. 10956.

[7] Ibid., sec. 10931.

[8] Ibid., sec. 10928.

A person or corporation dealing in grain, designated a "grain broker," is taxed on real estate and other tangible property (except grain on hand) and the average amount of capital invested in the business during the preceding year. "Average capital" includes all grain purchased during the year, whether the same has been sold or is still on hand at the time of assessment. The assessor determines the amount of such capital by inspection of the books of the grain broker.[1]

Capital Stock Tax—Annual Occupation Fee.

Every domestic and foreign corporation for profit (except banking, insurance, and building and loan corporations) doing business in Nebraska pays to the State, for state purposes, an annual tax on capital stock, designated in the statute as "an occupation permit authorizing the transaction of such business in this State." [2] The tax, which in no case exceeds $200, is based on the par value of the paid-up and subscribed[3] capital stock, and is graduated.[4]

Stockholders and Bondholders.

Shares of stock in corporations whose property is taxed in Nebraska are, in general, not taxed to holders. Stock in other corporations, and bonds of foreign and domestic corporations, are taxable to resident holders.[5]

Foreign Corporations.

Foreign corporations, of the various classes herein considered, are taxed in practically the same manner as similar domestic corporations.

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[1] Cobbey's Stats., sec. 10965.

[2] Ibid., secs. 4260, 4264.

[3] Report of Attorney General, 1909–10, p. 234.

[4] The grant of a charter to a corporation does not exempt it from an occupation tax, and the enumeration by the Nebraska constitution of certain occupations upon which an occupation tax may be imposed does not operate to exempt from such occupation tax occupations not included in the enumeration. Mercantile Incorporating Co. *v.* Junkin, 85 Nebr., 561 (1909).

The capital stock tax is graduated as follows:

Capital stock.	Tax or occupation fee.
Par Value $10,000 or less	$5.00
Exceeding $10,000 and not exceeding $25,000	10.00
Exceeding $25,000 and not exceeding $50,000	20.00
Exceeding $50,000 and not exceeding $100,000	30.00
Exceeding $100,000 and not exceeding $250,000	50.00
Exceeding $250,000 and not exceeding $500,000	75.00
Exceeding $500,000 and not exceeding $1,000,000	100.00
Exceeding $1,000,000 and not exceeding $2,000,000	150.00
Exceeding $2,000,000	200.00

[5] Cobbey's Stats., sec. 10927.

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 25 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED NOVEMBER 30, 1910.[1]

Total state receipts, all sources[2]		$3,005,039.61
State taxes from corporations:		
Steam railroads[3]	$300,005.00	
Express, telegraph, and telephone companies[3]	7,204.46	
Car companies[3]	1,649.28	
Pipe line companies[3]	469.51	
Franchised corporations and franchises[3]	21,985.39	
Insurance and security companies—general property tax[3]	3,815.14	
Insurance companies	133,003.95	
Incorporation fees[4]	84,636.98	
Capital stock tax[4]	61,006.08	
Corporation penalties[4]	4,245.00	
State banking board, fees	14,835.75	
Oil inspection, fees	20,299.45	
Food Commission, fees	6,498.77	
Railway Commission, fees	666.33	
Board of Irrigation, fees	456.15	
Total state taxes from corporations		660,777.24
Other taxes:		
Motor vehicle licenses[5]	9,308.63	
General property tax[6]	1,945,052.56	
Total state taxes not from corporations		1,954,361.19
Total taxes for state purposes, all sources		2,615,138.43
Receipts from sources other than taxes:		
Interest on deposits, securities, etc	62,536.30	
State University	114,257.20	
Convict labor	43,681.37	

[1] Biennial Reports, Secretary of State, State Treasurer, and State Auditor of Public Accounts, 1908–1910.

[2] This total obtained by taking one-half of the receipts given in the Biennial Report of the State Treasurer, 1908–1910, pp. 10–14.

[3] Estimated by applying the state rate of 5½ mills on the dollar to the assessed values of property, taken from statements of grand assessment roll for 1909, Auditor's Report, 1909–10, p. 190. Railroad valuation, ibid., p. 314.

[4] These figures represent half the amounts given on p. 26 of Biennial Report of the Secretary of State, 1908–1910.

[5] Half the amount shown in the Biennial Report of Secretary of State, 1908–1910.

[6] Part of this comes from local taxation of corporations, but it is impossible practically to ascertain the amount thus received, except the amounts above estimated which are not included in this item.

Receipts from sources other than taxes—Continued.		
United States aid to agricultural and experiment stations	$70, 500. 00	
United States aid to Nebraska S. & S.	31, 926. 27	
Five per cent of sales of public lands	6, 151. 11	
Miscellaneous receipts	60, 848. 93	
Total receipts from sources other than taxes		$389, 901. 18
Total state receipts, all sources		3, 005, 039. 61

IV. COMMENTS.

Historical.

The history of the taxation of corporations in Nebraska is properly divisible into the periods before and after the enactment of the revenue act, approved September 1, 1903.

Before the revenue act of 1903 foreign corporations and domestic public-service corporations were not adequately taxed. Moreover, taxation was not equal, corporate property being taxed at net value after deduction of debts, while individuals were required to pay on their property regardless of mortgages, etc. Corrective legislation was accomplished by the revenue act of 1903.[1]

The 1903 act repealed practically the entire revenue laws in existence at that time, and with the revenue acts of 1907 and 1909 (hereafter described) forms the basis of practically the entire revenue system of the State as it now exists. Among the more important provisions contained in this act were those relating to public-service corporations and local assessments.

Railroad companies under this act are required to furnish more complete data upon which the state board can base assessments not only of its tangible but intangible property. Local assessors are also given authority to demand such data of telegraph, telephone, and express companies as will enable them to assess both the tangible and intangible properties of such companies. They may also require inventories of manufacturers and merchants when such inventories are deemed desirable for the purpose of checking reported values of stock on hand. Minute provisions as to the supervision of county assessors over local assessors were also given and assessments were made reviewable by county boards and by the state board.

Property was assessable under the former law at actual value, but in practice only a small percentage of such value was assessed.

[1] Interview with W. T. Thompson, formerly attorney general of Nebraska, May 23, 1911.

The new law specifically provides for the assessment of property at 20 per cent of actual value.

The Revenue Law of 1903.

According to a writer in the Quarterly Journal of Economics,[1] certain recommendations contained in the 1901 report of a special tax commission of Kansas, while rejected by the Kansas Legislature, were for the most part embodied in the 1903 Nebraska revenue law. The section providing for the assessment of railroad property, for instance, was copied verbatim from the proposed Kansas act.

Some of the features of the Indiana tax system were also embodied in this law, but the legislative committee was careful to retain, as far as was consistent with their purpose to improve, those principles of the old law which had met the judicial approval of the state supreme court.[2] Possibly it is due to this evident desire to avoid future litigation that Nebraska, alone of the States thus far studied, still assesses locally, express, telegraph, and telephone companies.

The advantages of the new system as seen by a former attorney general of the State are here given:[2]

"The taxation system of Nebraska previous to the general revenue law of 1903 was a failure. The State was running behind in revenue until in 15 or 20 years there was a debt of over $2,000,000. By 1910, however, this debt had been entirely paid off, and now the State is able not only to pay its necessary expenditures, but can erect enduring fireproof buildings for normal schools, etc. Previous to the revenue law of 1903, the Nebraska grand assessment roll was about $185,000,000; now it will amount to more than $400,000,000. Railroads were assessed before 1903 at $24,000,000, while the first assessment of railroads under the 1903 law was $55,000,000.

"The 1903 law also unearthed something like $11,000,000 of intangible property belonging to individuals and to manufacturing and mercantile corporations. Under the old law the assessor would come and go in an apologetic manner, and the taxpayer would give the assessor what it was impossible to avoid; now, under the 1903 law, the State Board of Equalization and Assessment furnishes blanks to the local assessors, and there are something like 125 specific questions covering every conceivable class of property; and to the individual or corporation there is a heavy penalty for evasion of proper answers to these questions."

[1] Article by Victor Rosewater, Quarterly Journal of Economics, vol. 18, pp. 293–299 (Feb., 1904).

[2] Interview with W. T. Thompson, formerly attorney general of Nebraska, May 23, 1911.

Considerable agitation preceded the passage of this act. As stated in the governor's message of 1905, it "was brought under the searchlight of public opinion and was made the target of extreme criticism." This resulted in a better general understanding of the revenue problems, and the approval of the electorate was "such an indorsement of the work of the legislature that framed and passed the law as has seldom been recorded in the history of Nebraska."

* * * "The people understood the inequitable provisions of the old system, under which the growing State could not adapt its revenue to its increasing obligations. * * * They knew, too, that the two foundation principles of the 1903 law were the essentials of justice, namely, a listing of all property for assessment purposes at its fair cash value,[1] and the levying of an equitable and uniform tax upon all property so listed." Assessment has been equalized, "both private and corporation property have received their just deserts, and the State has been enabled to raise sufficient revenue to meet the expenses of government economically administered."

Important Legislation since 1903.

Since 1903 Nebraska has passed two important laws affecting taxation, namely, the terminal tax act of 1907 and the capital stock tax of 1909.

The purpose of the terminal tax act is to further differentiate between the taxation of local and nonlocal railroad property, and thereby give to the municipalities a larger share of revenue from the taxation of valuable terminals, and the like, located within their borders. The underlying principle of this act is the placing of power in the hands of officials of incorporated cities and villages to assess, and to levy municipal rates on the full assessable value of certain railroad property, while at the same time allowing other local districts to share in the distribution of the value of the same property which is again assessed by the state board.

The capital stock tax has been sufficiently described on page 99.

Centralizing Tendencies.

The present tendency toward centralization of taxation in Nebraska is evidenced by the 1903 revenue law. This centralization was induced by the results of a directly opposite condition,

[1] The 1903 act, as already shown, requires that property shall be listed at fair cash value and assessed at 20 per cent of such value.

namely, a highly localized taxation system. Localization began about 1873, was at its height in 1883, and continued practically without change until 1903. During the localization period the townships assessed and collected taxes so as to help the counties as little as possible, and each county's ambition was to see how little it could yield to the State. The result of the highly localized system was unsatisfactory; the centralization movement is forcibly illustrated in the revenue act of 1903.

Separation of Sources of Revenue Recommended.

The 1908 Report of the State Treasurer [1] calls attention to the difficulty experienced by the state board in making fair equalizations. The report states that the only way the board has of knowing whether one county is bearing its just proportion of state taxes with other counties is to see the values upon paper and compare them with those of other counties. As a remedy, the report suggests that the necessity for equalization as between counties could be eliminated by providing for the separation of sources of state and local revenue, namely, by taxing public service corporations solely for state purposes, leaving the counties and local taxing districts to raise their tax revenue by means of the general property tax.

Peculiar Features in Nebraska's Constitution.

The following comparison of constitutional powers is taken from "Annals of American Academy of Social and Political Science." [2]

"Our fundamental law was framed at a transitional period in the history of constitution making in America. The constitutions which preceded it were of the old type, containing merely the bill of rights, framework of government, and a few other general provisions. Those framed in more recent years are of increasingly widening scope, extending far into the field of general legislation. The Nebraska constitution occupies a position midway between these two types. It has a less extensive scope than those framed during the last decade, but it covers many subjects which would have seemed out of place in the constitutions of the early part of the century."

In each one of the States except North Carolina and Nebraska the constitution confers upon the State all power not expressly retained by the people, while the constitutions of Nebraska and North Carolina are like the Federal Constitution, conferring only

[1] 1907–1908, p. 7.

[2] May, 1900, vol. 15, pp. 435–436. "Some Original and Peculiar Features in the Nebraska Constitution," by Charles Sumner Lobingier.

those powers expressly enumerated. The language of the Nebraska section is:

"This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated, remain with the people."[1]

The article further states that this difference has had as yet little or no effect on Nebraska's constitutional interpretation, but that it may yet work surprising changes therein. It will be interesting to note whether the state system of taxing corporations will be affected by any such changes.

The supreme court of Nebraska has, however, held that the enumeration in the constitution of certain subjects for taxation did not preclude the legislature from imposing other taxes where there was no prohibition.[2]

Bibliography.

The following is a list of the more important publications, in addition to the constitution, the statutes, and the court reports, of value in the study of corporate taxation in Nebraska:

Reports and Opinions of Attorney General of Nebraska, 1905–6, 1909–10.

Reports of State Treasurer, 1906–1908, 1908–1910.

Report of Secretary of State, 1910.

Report of Auditor of Public Accounts, 1910.

Article by Charles Sumner Lobingier, entitled "Some Original and Peculiar Features in the Nebraska Constitution," published in Annals of American Academy of Social and Political Science, May, 1900, vol. 15, pp. 435–436.

Article by Victor Rosewater, "The New Nebraska Revenue Law," published in Quarterly Journal of Economics, February, 1904, vol. 18, pp. 293, 299.

The Assessment of Public Service Corporations, by Alfred E. Holcomb, assistant secretary, American Telephone & Telegraph Co., 1911.

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[1] Art. I, sec. 26.

[2] State *v.* Vinsonhaler, 74 Nebr., 675 (1905); Mercantile Incorporating Co. *v.* Junkin, 85 Nebr., 561 (1909), and cases cited.

KANSAS.

I. GENERAL VIEW.

Chief Features.

First. The almost exclusive employment of the general property tax, for state and local purposes, in the taxation of corporations, upon valuations including both the physical and nonphysical elements.

Second. The absence of corporate taxation distinctively for state purposes, except as to car companies, express companies, and foreign insurance companies

General Property Tax.

Unless otherwise provided, all corporate property is subject to the general property tax collected locally for both state and local purposes.

The assessment of the principal public-service corporations is made by the State Tax Commission, the valuation being then apportioned (except in the case of car companies) to the counties entitled thereto. Other corporations are assessed by the local assessors.

Assessments usually are about 85 per cent of full value.

Taxes for State Purposes Only.

Express companies pay to the State for state purposes a 4 per cent tax on annual gross receipts (after deducting transportation charges paid to railroads) from business done within the State; car companies, a tax on the value of their property, including intangible values, at the average rate for all purposes in the State during the preceding year; foreign insurance companies, a tax on premium receipts. These are the only classes subject to a tax which is collected exclusively for state purposes.

Stockholders and Bondholders.

Shares of stock in domestic corporations are not taxed to the holders. Shares in foreign corporations are taxed to resident

holders unless the capital stock is listed by the corporation. Bonds of both domestic and foreign corporations are taxed to resident holders.

Foreign Corporations.

Foreign public-service corporations are taxed substantially like domestic, but the assessed valuation of foreign manufacturing, mercantile, and miscellaneous corporations does not include the nonphysical element.

Administration.

The State Tax Commission, composed of three members appointed by the governor for terms of four years, assesses the property, including intangible values, of the principal public service corporations doing business in the State, except such real estate of railroads as is not used in daily operation. The commission assesses both the property and gross receipts of express companies, and it is further required to see that the properties of corporations in general are assessed upon a fair and equitable basis and that the assessments are relatively just and uniform and at true cash market value.

The commission equalizes the valuation and assessment of property throughout the State, and has the power to equalize assessments between persons, firms, or corporations of the same assessment district, between cities and townships of the same county, and between the different counties of the State. Appeals from the action of county boards may be taken to the commission. The commission apportions among the several counties, on the basis of the amount of taxable property in each, the burden of the tax to be raised for state purposes.

The tax on car companies is paid into the state treasury direct. The gross-receipts tax on express companies is collected by the state auditor, and the premium-receipts tax on foreign insurance companies is collected by the superintendent of the insurance department. The general property tax is collected by the various county treasurers.[1]

[1] Sources of revenue in Kansas:

Municipal and local districts.—(*a*) General property tax; (*b*) business taxes and licenses; (*c*) poll tax; (*d*) fines, fees, etc.

County.—(*a*) General property tax; (*b*) business taxes and licenses; (*c*) fines, fees, etc.

State.—(*a*) General property tax; (*b*) corporation taxes; (*c*) inheritance tax; (*d*) business taxes and licenses; (*e*) fines, fees, etc.

II. DETAILS AS TO THE CONSTITUTION AND STATUTES.

CONSTITUTION.

The constitution requires that the legislature provide for a uniform and equal rate of assessment and taxation, with exemptions applicable to property used for state, county, municipal, literary, and religious purposes, etc.,[1] and for the taxing of banks on notes and bills discounted or purchased, moneys loaned, etc.[2] The power of taxation exercised by cities, towns, and villages must be so restricted as to prevent abuse of such power.[3] The legislature is prohibited from conferring corporate powers by special act, but corporations may be created under general laws subject to amendment or repeal. The term corporations as here used includes all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships.[4]

STATUTES.[5]

General Property Tax.

With but slight exception corporations pay the general property tax upon real and personal property. The terms real property and personal property are defined in detail by statute. Capital stock, undivided profits, and all other assets of corporations are subject to taxation as personalty.[6] Both real and personal property are to be assessed at their full value.[7] Certain debts may be deducted from credits.[8]

As to all corporations, except those for which special provision is made, the value of real and personal property returned for taxation is deducted from the true value of the paid-in capital stock,[9] and deduction is also made for real and personal property

[1] Constitution, 1859, Art. XI, sec. 1.

[2] And other property, effects, or dues of every description (without deduction), so that all property employed in banking "shall always bear a burden of taxation equal to that imposed upon the property of individuals." Constitution, Art. XI, sec. 2.

[3] Constitution, Art. XII, sec. 5.

[4] Constitution, Art. XII, secs. 1, 6.

[5] Except as otherwise indicated, the references herein are to the compilation known as "General Statutes of Kansas, 1909."

[6] Stats., sec. 9215.

[7] All property, real and personal, must be valued at "its actual value in money." The price at which real property would sell at auction or forced sale must not be taken as the criterion of true value. It is to be assessed at "fair market value." "The usual selling price in money" governs as to personal property also. Stats., secs. 9349, 9220, 9247; Laws 1911, chap. 316, secs. 2, 11.

[8] Stats., sec. 9222. But debts may not be deducted from kinds of property other than credits. Proceedings of Convention of Tax Commission and County Assessors, Jan. 28–29, 1908, pp. 24, 25.

[9] Assessors take value placed on capital stock by the corporation, but check it by published statements, etc. Interview with state tax officials, Sept. 5, 1911.

belonging to the corporation in any other State, or county in this State, if it be made to appear that such property has been listed for taxation in such other State or county. The remainder, if any, is taxed as personalty.[1]

Railroad Companies.

On all railroad property in the State the general property tax is collected locally for both state and local purposes. Assessment, except as to real estate not used in the daily operation of the railroad, is made by the State Tax Commission, and the commission makes return of the proper valuation to each county in which any portion of such property is located.[2] Real property not used in the daily operation of the business is assessed locally.

The intangible value is not separately assessed, but is included in the item of average valuation per mile in the returns made to the counties by the commission.[3]

The value of the main track is apportioned at an average rate of valuation per mile, but this rate of valuation usually varies according to the subdivisions of the road. The value of rolling stock, materials, and supplies is distributed on the basis of main track mileage at one average rate of valuation for each item. The second track has one average rate of valuation throughout its length. The value of the sidetrack, buildings, and machinery, and real estate separate from the right of way but used in the daily operation of the road, is localized; that is, although assessed by the Tax Commission, such property is taxed where located, and its value does not enter into the average value per mile as in the case of the other property mentioned.[4]

The method of arriving at the aggregate assessment valuation is perhaps best presented by quoting the Tax Commission as to its action in 1908, as follows:

"The returns of the railroad companies were carefully examined; tours of inspection over the various railroad systems were made, with a view to noting the condition of the property with particular reference to the main track, second track, sidetrack, buildings, water and fuel stations, etc.; consideration was also given to material and supplies on hand, rolling stock, moneys, credits, and all other property of said railroad companies; the financial features of the properties were considered, such as capitalization, reported cost of construction, gross and net earnings, operating and main-

[1] Stats., sec. 9229.

[2] Ibid., sec. 9306 and sec. 9347, clause 15.

[3] Ibid., sec. 9307.

[4] First Report of Tax Commission to the Governor, 1908, p. 91.

tenance expenses. In fact, as already stated, everything was given weight which could properly be considered in estimating the value of railroad property."[1]

Interurban and Street Railway Companies.

These companies pay the general property tax locally for state and local purposes. All their property is assessed by the State Tax Commission. The returns of the companies are examined.[2] Consideration is given to all facts and conditions bearing upon the value of the property, including capitalization, indebtedness the proceeds of which are used in construction, cost of construction, gross and net earnings, and operating and maintenance expense. The value as thus ascertained is apportioned among the taxing districts wherein the property is located.[3]

Car Companies.

Car companies pay to the State for state purposes a tax upon all their property in the State, including the proportion of the total intangible value to which the State is entitled.[4] The rate of tax is the average rate for all purposes in the State for the preceding year.

The method of ascertaining the number of cars on which each company is annually assessed is to divide the total number of days made by all the cars owned by the company, on the several lines of railroad in the State, by the total number of days in the year.

The Tax Commission makes the levy and certifies the amount of taxes to the state treasurer and the state auditor. The tax is paid into the state treasury.[4]

Telegraph, Telephone, and Pipe Line Companies.[5]

The general property tax is paid locally by these companies, for both state and local purposes. Local companies whose lines are

[1] First Report of Tax Commission to the Governor, 1908, p. 93.

While real estate is defined as including buildings, fixtures, etc., all property owned, leased, used, occupied, or employed by any railway or telegraph company within the State, situate on the right of way of any railway, is classed as personalty. Stats., sec. 9215.

[2] The roads were personally inspected by the Tax Commission in 1908.

[3] Stats., sec. 9347, clause 15; also First Report of Tax Commission to the Governor, 1908, p. 38.

[4] Laws, 1911, chap. 318; also letter Jan. 20, 1912, from State Tax Commission.

[5] It was held unconstitutional, on the ground of being a tax on interstate commerce in violation of the commerce clause of the Constitution, as well as a tax on property beyond the limits of the State inconsistent with the due process of law enjoined by the 14th Amendment, for the State to require foreign corporations doing an interstate business to pay a charter fee of a certain per cent of their entire capital stock, as a condition precedent to doing local business. Western Union Tel. Co. *v.* Kansas, 216 U. S., 1 (1910).

entirely within the limits of a single county are assessed by the county assessing officer. Apportionment is then made to the various townships and school districts entitled thereto.[1] Intercounty and interstate companies of these classes are assessed by the State Tax Commission. The commission considers all elements usually going to make up the value of this kind of property. The values of property as returned by the companies are studied in detail and compared with the returns of other properties of like character. Cost of construction, gross earnings, capitalization, indebtedness the proceeds of which were used in construction, supplies, merchandise or products on hand, and the relation of the part of the property in the State to its whole as an interstate system, are given due consideration.[2]

The valuation is apportioned by the Tax Commission among the several counties through or into which the lines run. The counties apportion the value to the proper school districts, cities, and townships.[3]

Express Companies.

Express companies pay to the State for state purposes a tax of 4 per cent on gross receipts from business done within the State; this tax is computed upon the total gross receipts from business within the State, less amounts paid to railroads for the transportation of such business. Express companies also pay the general property tax locally, for state and local purposes, on both real and personal property.

Assessment of gross receipts and of all property of express companies is by the State Tax Commission. After assessment the valuation of the tangible property is certified to the respective counties through which the routes pass.[4]

Gas, Water, Electric Light, Heat, and Power Companies.

These companies pay the general property tax locally for both state and local purposes. The physical parts of the plant are valued as real estate in the districts where they are located, and all such values are localized. If there is personal property it is

[1] Laws, 1911, chap. 316.

[2] First Report of Tax Commission to the Governor, 1908, p. 100.

[3] Stats., secs. 9250–9258.

[4] Stats., secs. 9260–9264; and sec. 9347, clause 15; see also First Report of Tax Commission to the Governor, 1908, p. 33.

The tax may be imposed upon the business done within the State althoug the express company, in carrying the packages from one point to another within the State, passes for a short distance over the soil of another State. Leavenworth *v.* Ewing, 80 Kans., 58 (1909), citing Lehigh Valley *v.* Pennsylvania, 145 U. S., 202 (1891).

localized according to its situs. The value of the real estate and the personal property combined is then taken from the actual value of the capital stock and the difference is assessed as capital stock and is assigned to the taxing district where the principal office of the corporation is located.[1]

Mercantile, Manufacturing, and Miscellaneous Corporations.

These companies pay the general property tax locally for both state and local purposes on real and personal property. Domestic companies are taxed, under the head of personalty, on the value of capital stock after deduction has been made for real and personal property returned for taxation within and without the State. The capital stock of foreign corporations of these three classes is not considered in determining the amount of their personal property.

The average monthly amount of raw material on hand for the purpose of manufacture is taken as the taxable value.[2] The finished product is also taxable.[3] Real estate is taxed in the same manner as real estate belonging to individuals.

Stockholders and Bondholders.

Holders of shares in domestic and foreign corporations are exempt from taxation on their shares when the capital stock is listed by the corporation for taxation within the State.[4] Holders of bonds of domestic and foreign corporations are taxed upon such property as upon other personal property.

Foreign Corporations.

Foreign public-service corporations are taxed in practically the same manner as similar domestic corporations. A foreign manufacturing, mercantile, or miscellaneous corporation, unless it has its principal office in the State, is not taxed on the difference

[1] Stats., secs. 9229, 9336; also letter of Jan. 20, 1912, from State Tax Commission.

[2] Stats., secs. 9215, 9229, 9296; see also pamphlet entitled "Revised Duties of Assessors," etc., Kans., 1910, p. 39.

[3] State *v.* Holcomb, 81 Kans., 879 (1910).

[4] Stats., sec. 9229.

The resident owner of shares of stock in a corporation which is organized in another State and has its principal office there, is subject to taxation on such shares, although all, or practically all, of the capital of such corporation is invested in real estate and personal property which is taxed in Kansas; and such taxation is not double taxation. Hunt *v.* Board of County Commissioners of Allen County, 82 Kans., 824 (1910).

Assessment of shares of capital stock of a foreign corporation in the hands of the holder is not invalid because the taxing officers intended to make a distinction between those corporations which had their principal offices in the State and those which did not. Weis *v.* Stubblefield, 85 Kans., 199 (1911).

See also footnote 1, p. 113.

between the value of the capital stock and the value of real and personal property, as is a similar domestic corporation, but pays only the general property tax for state and local purposes on real and personal property.[1]

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 31 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED JUNE 30, 1910.[2]

Total state receipts, all sources		$4,710,688.26
State taxes from corporations:		
Railroads[3]	$459,286.31	
Telegraph companies[3]	4,135.84	
Telephone companies[3]	9,069.88	
Pipe line companies[3]	34,846.84	
Street and interurban railways[3]	11,799.65	
Public-service corporations assessed locally[3]	2,661.97	
Corporation capital stock assessed locally[3]	12,962.56	
Car companies[4]	15,992.69	
Express companies[5]	13,130.75	
Express companies, general property tax[3]	162.44	
Insurance companies	274,533.82	
Bank fees[6]	31,639.50	
Oil companies, fees[6]	28,987.68	
Annual corporation fees[7]	2,098.00	
Incorporation fees[7]	40,347.51	
Total state taxes from corporations		941,655.44

[1] A foreign corporation having its general office in another State wherein all its stockholders and officers reside, its elections are held, its seal kept, and all official and corporate business is transacted, but which maintains a business office in Kansas, in which the business for which the corporation was organized is conducted, can not be taxed on its capital stock in Kansas. The Foster-Cherry Commission Co. *v.* John Caskey et al., 66 Kans., 600 (1903).

A foreign corporation having its principal office in the State must list its capital stock for taxation, and a stockholder need not list his stock. Patterson *v.* Wilson County, 83 Kans., 224 (1910).

[2] Reports of State Tax Commission, State Auditor, and State Treasurer, 1909–10.

[3] Estimated by applying state rate of 1¼ mills to assessed valuations, found on pp. 145, 155, and 160, Report of State Tax Commission, 1910.

[4] $8,743.05 from miscellaneous car companies (p. 75, Auditor's Report, 1909–10) and $7,249.58 from tax on Pullman cars, computed by applying the average rate of 0.00856 per $1 to the assessed value of $846,921. Report of State Tax Commission, 1910, p. 85.

[5] Report of State Auditor, 1909–10, p. 218.

[6] Ibid., p. 95.

[7] Letter of State Auditor, Oct. 25, 1911.

Other taxes:		
Inheritance tax [1]	$8,827.59	
General property tax [2]	2,087,482.33	
Total state taxes not from corporations		$2,096,309.92
Total taxes for state purposes, all sources		3,037,965.36
Receipts from sources other than taxes: [3]		
School land principal	209,853.77	
School land interest	102,367.85	
Interest on bonds	447,858.28	
Game and fish warden receipts	30,150.40	
United States aid to Agricultural College	40,000.00	
Grain inspection fees	28,504.15	
Income, state institutions, and miscellaneous receipts	813,988.45	
Total receipts from sources other than taxes		1,672,722.90
Total state receipts, all sources		4,710,688.26

IV. COMMENTS.

Historical.

Under the territorial statutes as they existed in 1855, corporations paid a property tax upon the shares of stock but were permitted to recover from the owners of the shares the amount so paid.[4] Shares of stock in domestic corporations were not taxed in the hands of the holders. Bills of exchange, bonds, notes, and other securities were taxable. Thus the bonds of all corporations and shares of stock in foreign corporations were taxable to the holders.

In 1866 personal property subject to taxation included the capital stock and undivided profits of corporations. Corporations, as well as individuals, were allowed to deduct bona fide debts from the gross amount of credits. Shares of stock in domestic corporations were not taxable in the hands of the holders, the law requiring that the corporation itself should pay the tax on the capital stock at its true value. Holders of corporate bonds and of shares in foreign corporations continued to be taxed thereon.[5]

The most noteworthy feature of the year 1866, however, is the passage of an act creating the State Board of Equalization with

[1] Report of State Auditor, 1909–10, p. 109.

[2] Report of State Treasurer, 1909–10, p. 35.

Part of this comes from local taxation of corporations, but it is impossible practically to ascertain the amount thus received, except the amounts above estimated, which are not included in this item.

[3] Report of State Auditor, 1909–10, pp. 81, 82, 95.

[4] Statutes of the Territory of Kansas (Digest, 1855), chap. 137, pp. 657, 658, 662.

[5] Laws, 1866, chap. 118, secs, 2, 4, 9.

the duty of ascertaining whether the valuation of real estate in each county bore a fair relation to the valuation in all the other counties, and with the power to increase or diminish such county valuations, and to apportion to each county the amount of state tax required from it in proportion to the valuation of taxable property, just as at present.[1]

In 1869 a law was passed requiring that railroads in the State be valued on the basis of the mileage within the State, the amounts of such valuations to which each county was entitled being determined in the same manner.[2]

In 1876 the main provisions relating to taxation which are now in force were enacted, such as those relating to the taxation of property in general, the stock of merchants and manufacturers, the deduction of debts from credits, the taxation of the capital stock against the corporation, and the nontaxation of shares of stock in the hands of the holders.[3] This law of 1876 has remained unchanged except in minor particulars. The law is framed to conform to the constitutional requirements and contains the usual provisions intended to insure the assessment of all taxable property at its money value, but there was a constantly increasing tendency to undervalue property for taxation purposes, until the creation of the State Tax Commission.[4]

In 1907 a law was passed providing machinery for the enforcement of the code of assessment and taxation enacted in 1876. Prior to this year the work of assessment had been performed by local officers, with no supervisory power placed anywhere. The power of equalization vested in the county boards had seldom been exercised. Railroad, telegraph, telephone, pipe line, and some other public-service corporation properties were assessed by a state board, and there was a general local effort to assess in such a way as to make the corporation property bear the greatest burden possible, with little regard for equity. By the new law the Tax Commission is given supervision of assessments and is required to regulate the due performance of the duties imposed upon county assessors. The commission is charged with the duty of assessing all interstate and intercounty public-service corporations.[5]

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[1] Laws, 1866, chap. 118, secs. 31–34.

[2] Laws, 1869, chap. 124, sec. 8; Laws, 1871, chap. 150, sec. 7.

[3] Laws, 1876, chap. 34, secs. 4, 6, 12.

[4] First Report of Tax Commission to the Governor, 1908, p. 5.

[5] First Report of Tax Commission to the Governor, 1908, pp. 7, 8.

By means of information furnished by all the counties in the State as to the sale values of property, county assessors obtained a standard of true money value to be used in making assessments.[1] The commission required the county assessors to assess all property coming under their jurisdiction at its actual value, and the commission itself took like action with respect to the property of railroad and other public-service corporations, the assessment of which had always been a weighty problem.[2]

The last assessment under the old plan, divided among three classes of property, was as follows:[3]

Classes of property.	Value.	Per cent of total.
Real estate	$269,154,500	63.2
Personal property	78,854,269	18.5
Railroad and other public-service corporation property	77,272,445	18.1
Total	425,281,214	99.8

The values under the new plan were:[3]

Classes of property.	Value.	Per cent of total.
Real estate	$1,573,048,790	64.1
Personal property	474,191,255	19.3
Railroad and other public-service corporation property	404,320,352	16.4
Total	2,451,560,397	99.8

By another comparison[4] it was found that the 1908 value of lands was 6.32 times the 1907 value; town lots, 4.64 times; all real estate, 5.84 times; personal property, 6.01 times; public-service corporation property, 5.23 times; and railroad property alone, 5.13 times.

The percentage that the assessment of each of the different classes of property bore to the total assessment in each of the years 1907 and 1908 shows to what extent the tax was shifted among the classes of property by the 1908 assessment:

Years.	Land.	Town lots.	All real estate.	Personal property.	Railroad property, etc.
	Per cent.	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*
1907	44.78	18.50	63.28	18.54	18.16
1908	49.12	15.03	64.15	19.34	16.49

[1] First Report of Tax Commission to the Governor, 1908, p. 10.
[2] Ibid., p. 11.
[3] Ibid., p. 6.
[4] Ibid., p. 14.

In 1909 the percentage for the railroad and other public-service corporations increased to 16.66 per cent, but in 1910 fell to 15.26 per cent.[1]

The foregoing data seem to confirm the contention which had long been made, that the property of public-service corporations was bearing more than a just share of taxation.[2]

Taxation of Public-Service Corporations by Special Methods.

Taxation of public-service corporations by methods differing materially from the general property tax has been employed only with respect to express companies. In 1905 car companies were made subject to the special method of valuation of their cars, but the value was apportioned among the counties through which the cars were operated, both the State and the localities thus receiving their shares of the tax.[3] The amount distributed to many of the counties was inconsiderable and in 1909, on recommendation of the Tax Commission, legal provision was made for the payment of this tax directly to the State for the benefit of the general revenue fund, the rate being the average rate for all purposes in the State for the preceding year.[4] The latest provision in respect to car companies is that they shall pay to the State for state purposes a tax upon all their property in the State, including the proportion of the total intangible value to which the State is entitled.[5]

With regard to express companies, the first law, namely, that of 1907, provided for a tax of 1½ per cent upon gross receipts for business done within the State, less amounts paid to railroads within the State for transportation.[6] The rate was increased to 4 per cent in 1909, as the result of the Tax Commission's recommendation, after a consideration of the taxes paid by like companies in other States.[7]

The general property tax has never been superseded or supplemented by any special method, in the taxation of railroads and other public-service corporations (except express companies),

[1] Second Report of Tax Commission to Legislature, 1911, p. 10.

[2] First Report of Tax Commission to the Governor, 1908, p. 14.

[3] Laws, 1905, chap. 500.

[4] Laws, 1909, chap. 252; also First Report of State Tax Commission to the Legislature, 1909, p. 49.

[5] Laws, 1911, chap. 318.

[6] Laws, 1907, chap. 202.

[7] Laws, 1909, chap. 246; also First Report of State Tax Commission to the Legislature, 1909, p. 50.

though gross earnings, net earnings, etc., are considered in arriving at nonphysical values.

Separation of Sources of State and Local Revenue.

In 1908 the Educational Commission called attention to the fact that it seemed to be generally conceded that under the present system, i. e., apportionment of valuation to localities through which the roads pass, the taxes paid by railroads were unjustly distributed, and recommended that such changes be made in the law, and in the constitution if necessary, as to allow an equitable distribution to all the people of the State of the large sums of money now paid by the railroads. This commission also mentioned telegraph, pipe line, and other property nonlocal in its nature as being proper subjects of state taxation for the benefit of the whole State.[1]

The State Tax Commission in its report of 1911 [2] introduced a table relating to separation of sources of revenue, taken from the publication of this Bureau,[3] and, after commenting upon the subject to some extent, said that if the legislature should desire to provide for separation of sources of state and local revenue it could do so quite fully by requiring all taxes laid upon the property of interstate and intercounty public-service corporations to be paid into the state treasury for the benefit of the state general revenue fund; and that, as the amount of taxes now paid by those corporations is about equal to the state revenue raised by direct taxation, the result would be to relieve all other property in the State from a state tax levy, and to give to all the people the benefit of the tax paid by such public-service corporations. The commission continues:

"It can not be denied that there would be a large measure of justice in such legislation, because all the people of the State contribute to the funds of the corporations from which the taxes are paid.

"There seems to be no reason founded in justice or equity why a school district whose territory extends perhaps 10 miles in length along a railway and 1 mile in width on each side of it should have the benefit of all the school tax derived from the railway property therein, and other school districts situated 1 or 20 miles away get no benefit.

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[1] Report of State Superintendent of Public Instruction, 1907–8, p. 71.

[2] Second Report of Tax Commission to the Legislature, 1911, p. 11, et seq.

[3] Report of the Commissioner of Corporations, "Taxation of Corporations," Pt. II. (Introduction.)

"Fiscal subdivisions of the State which under the present plan get no tax from railway property have been often and are yet taxed to pay the principal and interest of bonds voted in aid of railway construction and, by their patronage, directly aid in increasing the value of such property, but are denied the advantages enjoyed by the subdivisions in which the railway property is situated, in the way of taxes derived from the fund jointly created. This condition applies particularly to school districts."

Double Taxation.

Although shares of stock are not taxed in the hands of the holders when the capital stock is taxed in the aggregate against the corporation, the Tax Commission evidently does not believe that this exemption is necessary in order to avoid double taxation. The commission is of the opinion that double taxation is sometimes claimed when in fact it does not exist; that taxing the instrument of production and at the same time the right to a part of the value of the product, the owner of this right having no ownership whatever in the instrument of production, is not taxing the same subject twice, but that there are here two distinct kinds of property, the rights of the owner of each kind being fully protected by law. The commission says, however, that the most pronounced modern thought upon the subject is probably opposed to this view.[1]

Uniformity in Taxation Among the States.

In the study of taxation that has been made and the work that has been carried on by the State Tax Commission, including recommendations upon which the legislature has based new enactments, both in the matter of the taxation of corporations and with respect to the whole subject of tax revenue, it is evident from the following paragraph that uniformity of tax legislation among the States was also under consideration by the Commission:

"It is obvious that many of the complex problems at present involved in the question of taxation might be much more easily solved if the tax laws of the several States were more uniform. There has been much discussion concerning the necessity for interstate comity in taxation, but as yet there appears no movement toward a harmonizing of conflicting interests among the States, except in so far as the action of the international tax conference, now being annually held under the auspices of the International Tax Association, may influence legislation in the several States to that end. For practical purposes it may be considered that the achievement of uniformity of laws among the States upon this subject may not soon be realized, but the policy of

[1] First Report of State Tax Commission to the Legislature, 1909, p. 20.

this State should be, at all times when possible, to legislate with that end in view."[1]

Bibliography.

The following is a list of the more important publications, in addition to the constitution, the statutes, and the court reports, of value in the study of corporate taxation in Kansas:

First Report of Tax Commission to the Governor, 1908.
Second Report of Tax Commission to the Governor, 1908–1910.
First Report of Tax Commission to the Legislature, 1909.
Second Report of Tax Commission to the Legislature, 1911.
Report of State Auditor, 1909–10.
Report of State Treasurer, 1909–10.
Report of State Superintendent of Public Instruction, 1907–8.
Proceedings of Convention of Tax Commission and County Assessors, 1908, 1910.
Revised Duties of Assessors, etc., 1910.

[1] First Report of State Tax Commission to the Legislature, 1909, p. 23.

MISSOURI.

I. GENERAL VIEW.

Chief Features.

First. The taxation of corporations under the general property tax.

Second. The assessment of property of certain classes of public-service corporations by a state board.

Third. Elaborate constitutional provisions respecting taxation.

General Property Tax.

Domestic and foreign corporations of the classes herein treated, except freight car companies, pay locally the general property tax for state and local purposes. While the law provides that property shall be valued at actual value, in practice it is generally assessed at less than 50 per cent.

Steam and Street Railroad and Freight Car Companies.

Steam and street railroad companies pay the general property tax locally for state and local purposes. Freight car companies are in practice taxed by the State for state purposes at the average rate of taxation. The State Board of Equalization determines the value of certain property of steam railroads and all property used in business of street railroad and car companies. These valuations, except as to freight car companies, are apportioned by the board on the mileage basis to the counties through which the lines or routes extend.

Telegraph, Telephone, and Bridge Companies.

Corporations of these classes pay locally the general property tax for state and local purposes on all property, including franchise. Assessment is by the State Board of Equalization.

Express Companies.

These companies pay locally the general property tax for state and local purposes, and in addition pay to the State a tax on gross receipts.

Gas, Water, and Electric Companies.

These companies pay locally the general property tax for state and local purposes. Assessment is made locally.

Manufacturing and Mercantile Companies.

Manufacturing and mercantile companies pay locally the general property tax for state and local purposes upon their real property

and upon raw materials, finished products, merchandise, tools, machinery, and appliances.

Stockholders and Bondholders.

Shares of stock in domestic and foreign corporations are not taxed. Bonds of domestic and foreign corporations are taxable to the holders.

Foreign Corporations.

Foreign corporations, except insurance companies, are taxed on all property in the State in practically the same manner as similar domestic corporations.

Administration.

The State Board of Equalization, composed, under the constitution, of the governor, state auditor, state treasurer, secretary of state, and attorney general, assesses steam and street railroad, car, telegraph, telephone, and bridge companies. All other property is assessed locally. The state board equalizes and apportions assessments among counties. County boards of equalization equalize all local assessments and hear complaints with respect to same.

The general property tax is paid to county collectors of revenue.[1] The gross-receipts tax on express companies is paid to the state treasurer.

II. DETAILS AS TO THE CONSTITUTION AND STATUTES.

CONSTITUTION.[2]

The chief provisions on taxation in the constitution are in substance as follows:

Among the special and local laws which the general assembly must not pass are laws "exempting property from taxation," and laws "granting to any corporation any special right, privilege, or immunity."[3]

Article X, on Revenue and Taxation, provides: The taxing power may be exercised by the general assembly for state pur-

[1] Sources of revenue in Missouri:

Municipal and local districts.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses; (*d*) fines, fees, etc.

County.—(*a*) General property tax; (*b*) poll tax; (*c*) business taxes and licenses; (*d*) corporation taxes (half the tax paid by foreign insurance companies); (*e*) fines, fees, etc.

State.—(*a*) General property tax; (*b*) collateral inheritance tax; (*c*) corporation taxes; (*d*) business taxes and licenses; (*e*) fines, fees, etc.

[2] Constitution, 1875.

[3] Ibid., Art. IV, sec. 53.

poses, and by counties and other municipal corporations, under authority granted to them by the general assembly, for county and other corporate purposes.[1] The power to tax corporations and corporate property shall not be surrendered or suspended by act of the general assembly.[2] Taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.[3]

All property subject to taxation shall be taxed in proportion to its value.[4] All railway corporations in this State, or doing business therein, shall be subject to taxation for state, county, school, municipal, and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises, and their capital stock.[5] The property, real and

[1] Constitution, Art. X, sec. 1.

The legislature is vested with power to levy either general or special taxes. It may delegate this power to municipal corporations. State ex rel. City of Springfield *v.* Smith, 138 Mo., 645 (1897); Express Co. *v.* City of St. Joseph, 66 Mo., 675 (1877).

[2] Constitution, Art. X, sec. 2.

The power of taxation will never be considered surrendered unless it is done expressly or by necessary implication. City of St. Louis *v.* Savings Bank, 49 Mo., 574 (1872).

[3] Constitution, Art. X, sec. 3.

Taxation is equal and uniform if all persons engaged in the same business are taxed alike. Express Co. *v.* City of St. Joseph, 66 Mo., 675 (1877).

[4] Constitution, Art. X, sec. 4.

The mandate of the constitution that taxes on all property shall be in proportion to its value does not include every species of taxation. It enjoins a uniform rule in imposing taxes on property. It does not abridge the power of the legislature to provide revenue from other sources. Glasgow *v.* Rowse, 43 Mo., 479 (1869); Express Co. *v.* City of St. Joseph, 66 Mo., 675 (1877).

In levying taxes on property, it sometimes can not be avoided that the same value will be twice taxed, but this does not make the tax illegal and void. St. Louis Mutual Life Ins. Co. *v.* Board of Assessors, 56 Mo., 503 (1874).

Taxing shares against stockholders of a corporation and also the property represented by the capital stock would be duplicate taxation. State *v.* Railroad, 77 Mo., 202 (1883).

[5] Constitution, Art. X, sec. 5.

The same rate of taxation under the Act of 1875 must be applied to both railroad and general property. State ex rel. *v.* Railroad, 92 Mo., 137 (1887).

This section has apparently been construed as providing in the alternative, different methods of taxing railroad property, to be selected by the general assembly. The real and personal property are represented by the capital stock, and gross and net earnings represent the earnings of the property and franchises together. This has been the construction adopted by the State Board of Equalization. * * * Railroads are therefore subject to be taxed in any one of these methods authorized by the constitution, but such property has not been subjected to taxation, except upon its value, as assessed by the State Board of Equalization. Judson, Taxation in Missouri, p. 104 (1900), citing State *v.* Railroad Co., 77 Mo., 202 (1883), and Valle *v.* Ziegler, 84 Mo., 214 (1884).

personal, of the State, counties, and municipal corporations, and cemeteries, shall be exempt from taxation; and a limited amount of real property may be exempted when used exclusively for religious, school, or purely charitable purposes, or for agricultural or horticultural societies.[1] All laws exempting other property from taxation shall be void.[2]

The state tax on property, exclusive of the tax to pay the bonded debt of the State, shall not exceed 20 cents on $100 valuation; and whenever the taxable property of the State shall amount to $900,000,000 the rate shall not exceed 15 cents.[3] Maximum rates are fixed for local taxes, and the valuation of property shall not exceed that made for state taxes.[4] The State Board of Equalization, consisting of the governor, state auditor, state treasurer, secretary of state, and attorney general, adjusts the valuation of property among the counties, and performs such other duties as may be prescribed by law.[5]

Every corporation, excepting those for benevolent, religious, or educational purposes, shall pay into the state treasury at the filing of its articles of incorporation $50 for the first $50,000 or

[1] Constitution, Art. X, sec. 6.

The provision of the constitution, exempting certain property from taxation, has reference only to general taxation for the purpose of revenue. State *v.* Linn County Court, 44 Mo., 504 (1869).

Under the constitution the property of the State, county, and other municipal corporations, is exempt from taxation. State ex rel. *v.* Heman, 70 Mo., 441 (1879); Fitterer *v.* Crawford, 157 Mo., 51 (1900).

[2] Constitution, Art. X, sec. 7. This section refers only to affirmative legislative exemptions, and does not refer to statutes which do not in terms exempt certain property, nor to mere casual exemptions. Kansas City *v.* Building and Loan Association, 145 Mo., 50 (1898).

[3] Constitution, Art. X, sec. 8.

The constitution of 1875 introduced for the first time specific limitations upon the rate of taxation. The self-enforcing reduction (in 1894) of the state revenue tax to 15 cents caused a material loss in the state revenues, which has proven at times a source of financial embarrassment in the administration of the state finances. Judson, Taxation in Missouri, pp. 67–68.

[4] Constitution, Art. X, sec. 11.

Rates prescribed can not be exceeded. State ex rel. *v.* Railroad, 92 Mo., 137 (1887); Arnold *v.* Hawkins, 95 Mo., 569 (1888).

[5] Constitution, Art. X, sec. 18.

This section authorizes the Board of Equalization to act without further legislation. The board is required to keep a full record of its proceedings and decisions, but not of the evidence adduced. It has full power to assess railroad property under the act of 1875, and this act is not in conflict with the constitution. Railroad Co. *v.* State Board of Equalization, 64 Mo., 294 (1876).

The law does not require the preservation of the evidence upon which the board based its valuation, nor does it designate the evidence upon which such valuation be made. State ex rel. *v.* Railroad Co., 101 Mo., 120 (1890).

less of capital stock, and $5 for every additional $10,000. In case of subsequent increase, $5 shall be paid for every additional $10,000 of capital stock so authorized.[1]

STATUTES.[2]

General Property Tax.

Domestic and foreign corporations of the classes herein treated pay locally the general property tax for state and local purposes. The assessment of public-service corporations includes franchises and all other intangible property, but the assessment of other corporations is based on tangible property only. The statutes provide that assessment shall be at actual value. In practice, however, the average valuation is less than 50 per cent of actual value.

Steam and Street Railroad Companies.

Domestic and foreign steam and street railroad companies pay the general property tax locally for state and local purposes on all property owned or leased by them, including franchise and other intangible property.[3]

For taxation purposes railroad property may be classified as:

(*a*) Roadbed and superstructure, which is assessed by the State Board of Equalization, and embraces main, branch, and side-tracks, switches, and all land and superstructures (except buildings) necessary for the safe moving, loading, and unloading of cars.[4]

(*b*) Rolling stock, which is assessed by the State Board of Equalization, and embraces engines and cars of various kinds, whether moved on the tracks by steam, hand, or other power.

(*c*) Buildings on right of way, which are assessed by the State Board of Equalization, and embrace depots, stations, and other buildings on right of way necessary for operation.

(*d*) Franchise, and other property which is necessary to operation, assessed by the State Board of Equalization, and not included in classes *a*, *b*, and *c*.

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[1] Constitution, Art. X, sec. 21.

[2] Except as otherwise indicated, references given herein are to the 1909 edition of the Revised Statutes of Missouri.

[3] R. S., sec. 11551 et seq.

[4] State ex rel. *v.* Railroad, 135 Mo., 618 (1896); State ex rel. *v.* Railroad Co., 162 Mo., 391 (1901). The right of way of a railroad company is taxable for general governmental purposes. Heman Construction Co. *v.* Wabash Railroad Co., 206 Mo., 172, 179, (1907).

(*e*) Property which is assessed locally, and which embraces office fixtures, warehouses, and other locally situated property not included in the above classes.

Provisions for making, verifying, and certifying reports of railroads are fully set forth in the statutes, but the statutes do not prescribe a method of arriving at valuations, and the system used is not revealed by the State Board of Equalization. In general, however, assessments are based on reports from railroads. These companies are required to file annually with the state auditor a statement showing in detail the mileage, value of property, and certain other facts necessary to a proper valuation of railroad property and franchise. In addition, railroads furnish a similar statement to county-court clerks of each county through which their lines pass. If examination by the clerk shows that these statements have omitted or undervalued property, they are, before certification to the state auditor, submitted to and corrected by the county court.[1] The statements made to the auditor and the county-court clerks are placed before the State Board of Equalization,[2] which equalizes and assesses the valuation of all property so reported.

The assessment of class *a* property is determined on the value of such property located wholly within the State. The assessment of class *b* property is determined on the basis of that proportion of the rolling stock which the number of miles in Missouri bears to the total length of the road.[3] The board then decides upon arbitrary values by classes for each of the various classes of rolling stock.[4] Under class *d* is added an amount to cover franchise and other intangible values. An agreed valuation per mile of main track is placed on the property of each of these classes, and the number of miles of main track in each county, or minor local district, multiplied by the total of the three classes, gives the apportionment thereto. The value of class *c* property is assigned direct to the county and minor taxing district where located.

While railroads are chargeable with the tax on rented equipment (including sleeping cars), they may recover taxes so paid from the owners of such equipment.[5] If, however, owners of

[1] R. S., sec. 11556.

[2] Ibid., sec. 11558.

[3] Ibid., sec. 11559.

[4] Journal of State Board of Equalization, 1909, pp. 23 and 24. Thus all engines belonging to a certain group of roads were in 1909 assessed at $5,000 each, standard sleeping cars at $6,500 each, etc.

[5] R. S., sec. 11603.

leased equipment have places of business in the State, the tax can be collected directly from the owners.

Street railway companies are taxed in practically the same manner as railroads and are subject to the same tax laws. All property used in the street railway business is assessed by the State Board of Equalization, and the assessment is based largely upon sworn statements of the companies, showing length of all lines and sidetracks, cars, wires, cables, buildings, and all other property, with the length of line in each taxing subdivision.[1]

Freight Car Companies.

Domestic and foreign freight car companies pay to the State for state purposes a property tax at the average rate of taxation[2] upon the number of cars necessary to make the mileage of such cars in Missouri. Assessment is by the State Board of Equalization and is based on statements from the car companies and from railroad companies over whose lines the cars run. From these statements the board places a value on each car and determines the average daily mileage of each.[3] The entire revenue from this tax is required by law to be distributed to the various localities, but the total is so small that in practice no part is so distributed.[4]

[1] R. S., secs. 11572, 11573.

The act of 1897, providing a uniform assessment for taxation of street railroads, extends to a company whose road is partly within the city and partly without. Assessments made in accordance with the act are not void because it requires street railway property to be assessed and taxed as is other railroad property. Under this act an assessment of *all* the property of a street railway by the state board is not void. State ex rel. *v.* Metropolitan Street Ry. Co., 161 Mo., 188 (1901).

"As construed by the state board, this act authorizes the assessment by the board of the entire property of the street railroads. * * * The assessment is thus entirely taken out of the jurisdiction of the local assessors, therein differing from the assessment of steam railroads, where property other than the roadbed, terminals, and rolling stock is assessed by the local assessors." Judson, Taxation in Missouri, p. 113.

[2] Average rate of all taxes, state, county, and local, combined.

[3] Journal of State Board of Equalization, 1909, p. 24.

[4] R. S., secs. 11560–11571.

In answer to your letter of inquiry relative to distribution of tax collected from private car concerns doing business in the State of Missouri, beg to say that this tax is paid direct into the state treasury, and no part of it is distributed to the various localities for the reason that should the board undertake to make the assessment and apportionment as provided by the law in the State, in most instances the valuation apportioned to subdivisions would be a fraction of a dollar and the taxes a fraction of a cent. Therefore the state board has for the last six years made and carried out the assessment against such concerns, as reported in the journal of its proceedings. Letter from state auditor, Jan. 8, 1912.

Telegraph, Telephone, and Bridge Companies.

Domestic and foreign companies of these classes pay locally the general property tax for state and local purposes on tangible and intangible property including franchise.[1] They are taxed under the same law and in practically the same manner as are railroads.[2] Assessment is by the State Board of Equalization and like the assessment of railroads is based on reports from the companies. The various items of property, such as poles, wire, etc., are assessed at a valuation per mile, and an allowance is added to cover franchise and other intangible property.

Express Companies.

Domestic and foreign express companies pay the general property tax for state and local purposes on locally situated property, which is assessed and taxed in the same manner as the property of individuals.

In addition they pay to the State for state purposes a tax of 1¼ per cent on gross receipts.[3] In practice it is considered to be in lieu of all other taxes on franchise and business. Assessment is based on gross receipts as reported in annual statements to the state auditor.

Gas, Water, Electric Light, Heat, and Power Companies.

These companies, domestic and foreign, pay locally the general property tax for state and local purposes on all property including franchise.[4] Stock on hand, machinery, tools, etc., are assessed in

[1] R. S., sec. 11608.

It is the duty of the State Board of Equalization to assess all the property, real and personal, including franchises, of telegraph companies. In determining the value of the tangible property it is proper to compare the length of the line in the State with that of the entire line or to take the aggregate value of the shares of the capital stock and deduct a valuation proportional to the length of the lines without the State and also the value of the real estate and machinery subject to local taxation. Taxes so assessed constitute an excise tax upon the property or capital of the corporation and not a tax upon any franchise. State ex rel. *v.* Western Union Telegraph Co., 165 Mo., 502 (1901).

[2] R. S., sec. 11608.

[3] Ibid., sec. 11607.

"This tax on the gross receipts of express companies, which has been thus judicially sustained (Pacific Express Co. *v.* Seibert, 142 U. S., 339; 1892) is the only instance in the State of such a tax levied by state authority (except the tax upon insurance premiums), being in effect a tax upon the revenue of the franchises of this business." Judson, Taxation in Missouri, p. 120.

[4] R. S., secs. 11551, 11552. Possessing special privileges, such as the right to use public streets.

practically the same manner as property of manufacturing companies. Assessment is by local assessors.

Mercantile and Manufacturing Companies.

These companies pay locally the general property tax for state and local purposes on real estate, raw materials, finished products, merchandise, tools, machinery, and appliances. Real estate is taxed on the same basis as real estate belonging to individuals. The other items mentioned are taxed under what is in form a license tax, but which is in reality a tax on property.[1] As applied to merchants it is levied on the highest amount of goods in their possession at any time between the first Monday in March and the first Monday in June. As applied to manufacturers it is levied upon the greatest amount of raw material and finished products in their possession at any time between the dates mentioned, and on tools, machinery, and appliances on hand on June 1 of each year.[2] The rate for state purposes is the same as the state rate on real estate; for county purposes it may exceed the state rate by 100 per cent; for city purposes, except cities of 300,000 inhabitants, it must equal the city rate on real estate. Cities of 300,000 inhabitants may levy a less rate than they levy for city purposes on real estate. Assessment is by local authorities.

Stockholders and Bondholders.

Shares of stock in domestic and foreign corporations are not taxed.[3] Bonds of domestic and foreign corporations are taxable to holders.[4]

Foreign Corporations.

Foreign corporations of the classes herein considered are taxed in practically the same manner as similar domestic corporations.[5]

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[1] R. S., sec. 11619.

"We regard the law on merchants' licenses as an indirect taxation. Indeed the third section so declares it. * * * That this tax was collected through the medium of a license did not make it less a tax." Cape Girardeau *v.* Riley, 72 Mo., 220 (1880); State ex rel. *v.* Alt, 224 Mo., 493 (1909).

[2] R. S., sec. 11646. Manufacturers whose materials, tools, etc., are valued at less than $1,000 are exempt.

[3] State *v.* Lesser, 141 S. W. Rep., 888 (1911).

[4] R. S., sec. 11348.

[5] The franchise of foreign corporations is property and is subject to taxation either separately or as part of corporate property. State ex rel. *v.* Western Union Tel. Co., 165 Mo., 502 (1901).

III. FINANCIAL RESULTS.

Classification of Revenue.

The proportion of total state taxes for state purposes derived from corporations for 1910 was 20 per cent.

TOTAL STATE RECEIPTS, TAXES FROM CORPORATIONS, OTHER TAXES, AND RECEIPTS FROM SOURCES OTHER THAN TAXES, YEAR ENDED DECEMBER 31, 1910.[1]

Total state receipts, all sources		$7,151,125.12
State taxes from corporations:		
Steam railroads[2]	$212,586.02	
Street and electric railroads[2]	59,030.67	
Railway cars, private[2]	770.05	
Bridge companies[2]	8,341.05	
Telegraph companies[2]	4,212.13	
Telephone companies[2]	13,727.77	
Express companies	17,091.68	
Freight-car companies	7,856.02	
Incorporation taxes [or fees]	170,675.00	
Foreign insurance companies	285,329.25	
Insurance fees	84,482.74	
Banks and trust companies	27,790.00	
Building and loan associations	4,443.14	
Miscellaneous companies[2]	135,238.53	
Total state taxes from corporations[3]		1,031,574.05
Other taxes:		
Motor-vehicle licenses	31,527.50	
Excise fees (liquor)[4]	41,313.75	
Beer stamps	492,534.62	
Dram shops	1,044,058.42	
Collateral inheritance	314,288.05	
General property tax[5]	2,294,000.60	
Total state taxes not from corporations		4,217,722.94
Total taxes for state purposes, all sources		5,249,296.99

[1] Report of State Auditor, 1909–10.

[2] Estimated by applying the total state rate of 17 cents per $100 to the assessed values of the corporation property. Report of State Auditor, 1909–10, pp. 431, 455, 467.

Miscellaneous includes banks, trust and domestic insurance companies. Judson, Taxation in Missouri, p. 123 (1900).

[3] Does not include all corporation taxes collected locally.

[4] This is an excise tax collected in St. Louis alone. See Stats., 1909, Art. II, chap. 63, secs., 7230 to 7237, inclusive.

[5] This amount does not include $433,906.22 estimated to have been paid by corporations. Part of this comes from local taxation of corporations, but it is impossible practically to ascertain the amount thus received, except the amounts above estimated, which are not included in this item. There is, however, included a small amount of miscellaneous license fees.

Receipts from sources other than taxes:		
Interest on deposits	$86, 128. 50	
Oil-inspection fees	92, 836. 32	
Game-fund fees	83, 540. 80	
Penitentiary receipts	395, 141. 06	
Hospital and other funds	814, 551. 64	
Miscellaneous receipts	429, 629. 81	
Total receipts from sources other than taxes		$1, 901, 828. 13
Total state receipts, all sources		7, 151, 125. 12

IV. COMMENTS.

Historical.

In the Territory of Missouri, from 1804 to 1820, and in the State until the second constitution, adopted in 1865, the revenue laws specified the various subjects of taxation, fixing rates upon each, and adding to the list of taxables as the State grew in wealth and population. An unusual tax was that upon bachelors from 1804 to 1822, when a poll tax on all white males was substituted for it. The general property tax, as adopted in 1865, still controls taxation in the State, though the assessing is divided between the local assessors and the State Board of Equalization, which values certain kinds of corporate property. The taxation of inheritances in 1899 and of franchises in 1901 shows a tendency toward the imposing of special taxes as a method of correcting some of the unsatisfactory features and results of the general property tax.

The first corporation tax was that of one-fourth of 1 per cent on bank stock in the first revenue act of the State in 1820; and the first general corporation tax law, in February, 1833, imposed the same rates as on other taxable property upon all stock vested in any corporation except hospitals and literary institutions. Under the law of 1841 the tax on shares of stock was collected from the corporations, a method still retained in the taxation of banking and domestic insurance companies.

The property license tax on merchants, in its present form, has been in effect since 1859 and that on manufacturers since 1877, both having been adopted after discriminations made by earlier laws had been declared unconstitutional.

Until 1871 the only form of taxation of railroad property was against the shareholders for their shares, with no lien on the property of the company. In that year the law established the present system of assessing taxes upon railroads through the State Board of Equalization. Since 1877 the taxes on bridge and telegraph companies have been assessed, levied, and collected in the same

manner, telephone companies being added in 1901, and all the property of street railroads has been so taxed since 1897.

Constitutional Tax-Rate Making.

In the constitution of 1820 the only provision relating to taxation, excepting those against taxing the property of the United States and forbidding discrimination against nonresidents, was: "That all property subject to taxation in this State shall be taxed in proportion to its value." The present constitution, adopted in 1875, contains elaborate legislative provisions governing taxation and, for the first time, introduces specific limitations in the rates of taxation, establishing maximum rates for state, county, municipal, and school purposes.

A few other States—Alabama, Arkansas, Kentucky, Louisiana, Texas, and Wyoming—resemble Missouri in constitutional tax-rate making. Colorado, Idaho, Montana, North Dakota, and Utah establish a maximum for state taxes, and Nebraska and West Virginia limit the rates in counties, but this constitutional feature is found in only about one-third of the States.

The Supreme Court of Missouri said in 1894:

"Prior to the constitution of 1875, the power of the legislature to impose taxes was practically unlimited. It is unnecessary to recall the history of the times which led to the call of the convention which framed it to impress the mind with the fact that one of the great purposes for which it was assembled was to put a check upon that power. It stands out upon the face of the instrument as the most novel and significant fact in it, and the purpose to limit that power, whether exercised immediately for state purposes, or mediately for local purposes, is alike apparent."[1]

Under the constitution counties having a total property valuation of $6,000,000 or less may levy 50 cents on $100; from $6,000,000 to $10,000,000, 40 cents; from $10,000,000 to $30,000,000, 50 cents; and over $30,000,000, 35 cents. For city and town purposes the rates are graded on a basis of population instead of property. In 1910 in the 114 counties of the State, excluding the city of St. Louis which has no county organization, there were 68 of the first class, 33 of the second, 10 of the third, and 3 having more than $30,000,000.

F. N. Judson, in Taxation in Missouri, says:

"These constitutional limitations of the county tax rate * * * have proven * * * veritable strait-jackets in the adminis-

[1] State ex rel. *v.* Railway Co., 123 Mo., 72 (1894).

tration of the county finances and the source of embarrassment and litigation."[1]

"The limitation of the tax rate has compelled counties which wished to increase their revenues to raise the assessments. But a number assess on so low a basis as to be unable to pay current expenses, and not infrequently assessors run for office on the platform of promising not to increase assessments. Thus, if a county has a little over $6,000,000 valuation, it has only the right to levy a 40-cent rate, while if its valuation is reduced to $6,000,000 it can increase its tax rate to 50 cents. The state auditor reports that the members of the State Board of Equalization are besieged by county officials asking for a decrease of the total valuation, so as to bring their counties into a lower class and give them power to levy a higher rate for county purposes."[2]

Comments of Tax Commissions.

The Tax Commission of 1903 reported:

"The revenue laws of Missouri in their main provisions compare favorably with those of other States. Many changes that have been suggested, and some that seem desirable to the commission can not be made on account of constitutional provisions. The legislature is so hedged about and hemmed in by limitations in the fundamental law of the State that, as the constitution stands, no statutory change can be made in the general system of taxation now in force."[3]

The commission suggested a separation of the sources of state and local revenues, claiming that the aggregate taxes collected from all the public-service corporations for county, municipal, and school purposes, together with the county apportionment of the tax on foreign insurance companies, were practically equal to the total amount collected for the State from real and personal property and from merchandise. The commission further said:

"By levying a rate upon corporate property now assessed by the State Board of Equalization sufficient to bring into the state treasury an amount equal to the sum collected at present from these corporations for all purposes, and by retaining the tax upon foreign insurance companies heretofore apportioned to the different counties, the State might forego its tax upon real and personal property, including the ad valorem tax upon merchandise, without loss of income. Our constitution, however, stands in the way of this method of taxation."[4]

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[1] Judson, Taxation in Missouri, p. 162.
[2] Ibid., p. 164.
[3] Report of State Tax Commission, 1903, p. 4.
[4] Ibid., 1903, p. 8.

The Tax Commission of 1907 said:

"We concur in the conclusion of that commission (of 1903) that no change can be made in our revenue system correcting the existing inequalities without amending the constitution of the State."[1]

And also:

"We see no remedy for this existing inequality and resulting injustice, except in the separation of the sources of state and local revenues."[2]

Inequalities in Assessment.

Uniformity in assessment appears to be unattainable in the practical administration of taxation, and in this respect Missouri is no more successful than other States. The State Tax Commission of 1903 sent a circular letter to the officials of all the counties, asking information on this subject, and the report of the commission says:

"Reports were received from 98 counties and the city of St. Louis. * * * It is within the bounds of truth to say that no two counties in the State have the same rule for the assessment of all classes of property, and, generally speaking, there is absolutely no uniformity as to the proportion of the actual cash value taken as the basis for the assessed value."[3]

The commission quotes from some of the reports of the tax commissions of other States on this subject, of which the following are examples:

Wisconsin—The mandate of the statute that property shall be assessed at the true or cash value has never been followed. Colorado—The constitution and laws of Colorado require all property to be assessed at its full cash value. Yet not an assessor in the State pretends to obey this law, nor do the county commissioners or courts attempt to enforce it. Minnesota—It is obvious that valuations for the purposes of assessment have been but slightly influenced by actual values.

State and Local Taxes.

There is no separation in Missouri of the sources of state and local revenue, consequently the taxes paid to the State by the important corporations are a small part only of the amount drawn from them by taxation. The $17,000 paid in 1910 by express companies was a state tax, and $570,000 from the foreign insurance companies was collected by the State, but half of the latter sum was distributed to the counties. All other corporations

[1] Report of State Tax Commission, 1907, p. 5.
[2] Ibid., 1907, p. 8.
[3] Ibid., 1903, p. 6.

paid both state and local taxes, and while the rate for state revenue and interest was 17 cents on $100, the average rate in 1910 for county and municipal taxes for all purposes was $1.2446, over seven times as much. Of a little over $26,000,000 levied against lands, town lots, and personal property in the State, over $23,500,000 were for local taxes.

The taxes levied on steam and street railroads, bridges, telegraph and telephone companies, amounted in 1910 to nearly $300,000 for state purposes, while the same corporations paid over $2,600,000 in county and municipal taxes. No approximation can be made for mercantile and manufacturing corporations, as there is no separation in the published records of these corporations from firms and individuals engaged in similar occupations, but all the merchants and manufacturers in the State paid in 1910 a little over $200,000 to the State, and nearly $680,000 in local taxes.

Separation Amendment Rejected.

At the general election in November, 1908, the voters rejected an amendment to Article X of the constitution, submitted by the legislature of 1907.[1] This amendment provided for the separation of the sources of state and local revenue; the establishment of local option for counties and municipalities in the selection of the subject of taxation; and the discontinuance of the general property tax.

Centralizing Tendencies in Taxation.

The first State Board of Equalization was created in the act of March 19, 1866, by which the members of the State Senate and the lieutenant governor were constituted a State Board of Equalization with authority to equalize the valuation of real and personal property among the several counties in the State.

By the act of March 10, 1871, the state auditor, the state treasurer, and the register of lands were made a special board of equalization of railroad property, with the powers and duties that the state board possessed in reference to all other property.

The constitution of 1875 established the present state board, consisting of five state officers, and the supreme court held[2] that this provision of the constitution required no legislation to put it into effect, and that this board could equalize and assess railroad

[1] Laws, 1907, pp. 460–462.

[2] R. R. Co. *v.* State Board, 64 Mo., 294 (1876).

property as well as adjust the valuations in the counties, under the powers conferred upon the boards previously existing.

It is the duty of the state board to equalize in the counties the valuations, by the local assessors, of urban and farm property, live stock of all kinds, corporate companies, and all other personal property, and also to make an original assessment of public-service corporations. The governor, auditor, treasurer, secretary of state, and attorney general, presumably busy in the work of their respective offices, must depend to a large extent upon the returns made under the law by corporations and individuals. A permanent state tax commission, selected for some knowledge of the subject, could, in time, correct the ex parte statements of taxpayers, and if the present constitutional restrictions which now cripple taxation were modified, they could evolve an improved system and more satisfactory methods for the taxation of individuals and corporations for state and local purposes.

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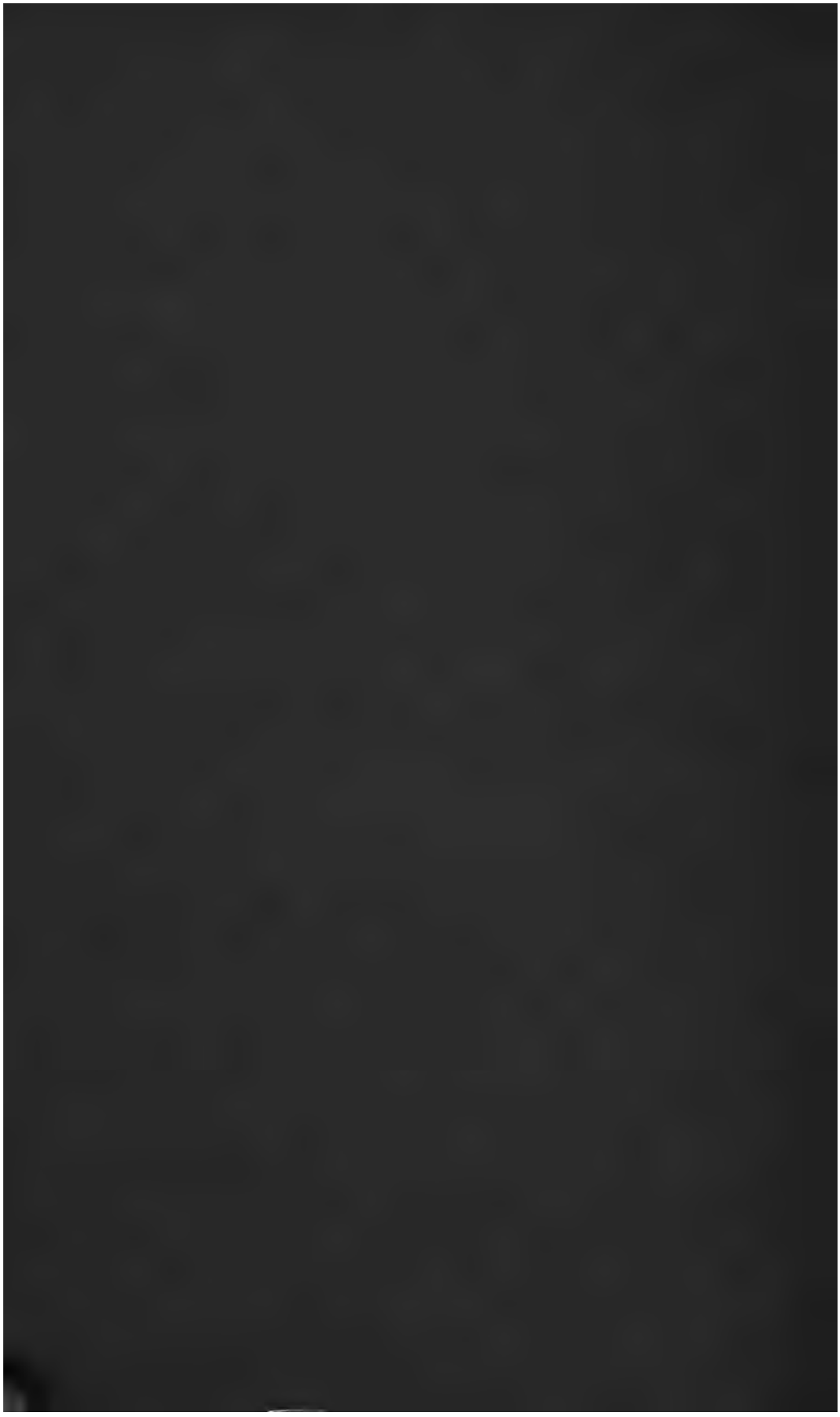
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